Unemployment Insurance Review

December 1968

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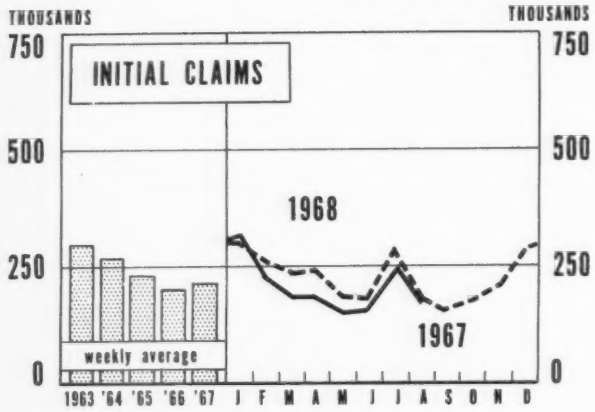
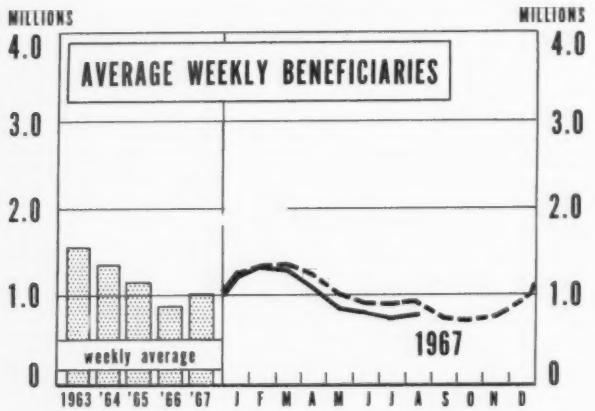
- Temporary Disability Insurance Program in Puerto Rico
- New Work and the Prevailing Conditions-of-Work Standard

UNITED STATES DEPARTMENT OF LABOR
Manpower Administration

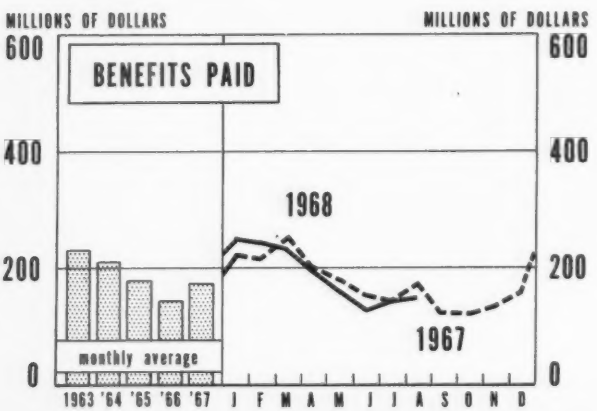
UNEMPLOYMENT INSURANCE ACTIVITIES
UNDER STATE PROGRAMS



Initial claims filed by jobless workers under State programs averaged 173,800 per week in August, compared with 240,400 in July and 186,800 in August last year.



The number of beneficiaries under regular State unemployment insurance programs during August averaged 803,500 per week. During July, the average measured 770,400 and in August 1967, the figure was 945,900. The August 1968 average is the second lowest for the month since 1953. In August 1966, the weekly average was 791,000.



Benefit payments to insured jobless workers under the State programs totaled $150.0 million in August, up by $4.4 million over the month, but $22.8 million less than the benefit payment in August a year ago.

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Notice

With this issue, the UNEMPLOYMENT INSURANCE REVIEW will cease publication as a separate magazine. Future articles of interest in the field of unemployment compensation will be published regularly in a new magazine, MANPOWER, to be published monthly by the Manpower Administration of the U.S. Department of Labor. The first issue of the new magazine will be the January 1969 issue. Subscribers to the UNEMPLOYMENT INSURANCE REVIEW will receive MANPOWER to complete their subscription contracts.

Blind Spots in Unemployment Insurance

What We Don't Know About UI —And Need To Find Out

Saul J. Blaustein

Only 35 years ago, in bitter commentary about the sad state of our economic intelligence with regard to the labor force, it was often said that we knew far more about hogs than workers. Our knowledge about unemployment then was slim indeed. Today, by comparison, information on this subject is extensive and relatively sophisticated. A considerable share of the credit for this gain must go to those who had enough foresight to implant in the Social Security Act of 1935 the basis for having all State unemployment compensation agencies compile and submit to Washington information about the operation of their programs. To be sure, much of our knowledge about unemployment also comes from the monthly household Current Population Survey conducted by the Census Bureau and reported by the Bureau of Labor Statistics. Both the survey findings and the unemployment insurance (UI) program have been vital in contributing to our understanding of unemployment.

Despite the passage of three decades since unemployment benefits became payable throughout the country, and the accumulation of a great amount of data over this period, there remain several glaring gaps in what we know about the program's operations and the people it serves. It is true that the desire for information is never fully satisfied. Some deficiencies, however, can be rather critical impediments to adequate analysis of unemployment problems in general and of the unemployment insurance program in particular, with consequent ill effects on policymaking and legislative planning. This article discusses a number of these informational gaps and suggests ways to overcome them. Those areas singled out for discussion here do not by any means exhaust the research needs to be met. They represent a personal judgment of what are the most urgent needs that can be supplied, for the most part, from the program itself.

Mr. Blaustein is on the staff of The W. E. Upjohn Institute for Employment Research. The views expressed are his own and do not necessarily reflect the position of the Institute.

Compensated and Noncompensated Unemployment

There is a general impression that jobless workers, by and large, can and do draw unemployment benefits. Granted, not all the unemployed are covered and some that are do not draw compensation because they have exhausted their benefits or are not eligible for them. Still, these cases are regarded as exceptional. The facts are quite different, however. Only on rare occasions does a substantial majority of the unemployed draw benefits. Most times only a minority do so, often a fairly small minority. Since 1950, there have been only 2 years (1958 and 1961) when, on the average, as many as half the unemployed were drawing benefits. The proportion has averaged under 40 percent in half of these years and closer to 30 percent in the last few years (table 1).

TABLE 1.—TOTAL AND COMPENSATED UNEMPLOYMENT, 1950–67 AVERAGES

[Number in thousands]

Year	Total unemployment [1]	Average weekly number of UI beneficiaries [2]	
		Number [3]	Percent of total
1950	3,288	1,274	39
1951	2,055	760	37
1952	1,883	845	45
1953	1,834	785	43
1954	3,532	1,591	45
1955	2,852	1,073	38
1956	2,750	1,000	36
1957	2,859	1,207	42
1958	4,602	2,446	53
1959	3,740	1,628	44
1960	3,852	1,659	43
1961	4,714	2,415	51
1962	3,911	1,685	43
1963	4,070	1,573	39
1964	3,786	1,394	37
1965	3,366	1,147	34
1966	2,875	875	30
1967	2,975	986	33

[1] From national monthly household Current Population Survey published in Manpower Report of the President (Washington: GPO, April 1968), p. 221.

[2] Includes State, Federal (UCFE and UCX), and railroad UI programs, and Federal temporary extension programs of 1958–59 and 1961–62; excludes estimated number filing partial claims under regular State UI programs.

[3] Estimated from data provided by U.S. Department of Labor, Bureau of Employment Security, and the Railroad Retirement Board.

These facts raise some serious questions about the scope and effectiveness of unemployment insurance as a program intended to be the primary means for alleviating income loss due to unemployment. Its limited performance should stir grave concern. Is the problem a matter of shortcomings in the program? Or is the nature of unemployment today such that most of it is not appropriately dealt with through unemployment insurance?

To help answer these rather fundamental questions, it is necessary to analyze the unemployed by their benefit status and, for those not compensated, by the reasons they do not draw. The means for doing so are available through the State employment security program.

Statistics on total unemployment are available from the monthly household survey on a national basis only. The Bureau of Employment Security has provided techniques to the States to estimate total unemployment by State and by local area starting with a count of compensated unemployment which is regularly available from the program. The procedure, in effect, involves estimating the various components comprising the noncompensated unemployed so that they can be added to the count of the insured group. While there is some debate regarding the accuracy of the local estimates in several places, the national figures are reconcilable to the household survey counts. The States make these unemployment estimates every month. They are published by State and by local area.[1] But the byproducts that account for noncompensated unemployed are never published, or even made use of for that matter.

The Bureau of Employment Security recently prepared estimates for 1967 of the composition of unemployment in these terms for the United States. The figures given in table 2 are derived from these estimates. They make clear the major reasons why so many of the unemployed fail to draw benefits. To spell out all the implications of these data for the UI program goes beyond the scope of this article. Some of them are readily discernible in any case. It would seem advisable to develop and publish such estimates at least annually and for the Nation. Comparable estimates by State also warrant analysis because of the variation among States in their unemployment

[1] *Area Trends in Employment and Unemployment.* Washington: U.S. Department of Labor, Manpower Administration, monthly.

insurance laws. Dissemination of this type of information would also help to correct general misconceptions about the program's existing capacity for treating unemployment.

The Nature of the Job Separation

A worker who has been laid off temporarily and who expects to return to his job within a short time presents an unemployment problem far different in nature and potential severity from that of the worker who has been permanently separated from his job. Yet our unemployment figures do not distinguish between these two situations. To understand more fully the gravity of unemployment and the avenues appropriate for its alleviation, it is important to make that distinction in the statistics presented.

New entrants or reentrants into the labor force make up a separate category of their own in this regard since job separation is not a factor for them. All other unemployment arises from job separation. In 1967, about two-thirds of the unemployed were separated from jobs (table 2). Except for those not covered by unemployment insurance and some others who chose not to file for benefits, all of these unemployed workers have at least filed for benefits at some time after their job separation.

It is customary to determine from the claimant at the time he files for benefits why he has stopped working and whether he expects to be recalled by his employer. One of the principal objectives of this inquiry is to help establish any evidence that the claimant separated under circumstances that would be disqualifying. Also, those on short, general layoffs do not require help from the Employment Service and therefore may not have to regter for work, although in some States all claimants are automatically required to file a job application. It is out of this treatment of initial claims that should emerge the basis for making the necessary distinction between permanent and temporary job separations. Unfortunately, the information obtained at this stage is never compiled, nor is it obtained in a systematic or uniform manner throughout the country.

The monthly household survey now regularly produces information that distinguishes between job losers and job leavers among the unemployed. The limited published analysis made of these data gives some indication of their value and potential. For example, data for July 1968 show that job losers were nearly 2½ times as numerous as job leavers. Among unemployed men, there were about 3½ times as many job losers as job leavers while among the women the ratio was less than 2 to 1. About 38 percent of the job losers had been unemployed 15 or more weeks compared with only 24 percent of the job leavers.[2] Job leavers presumably would be disqualified from drawing benefits unless their voluntary separation occurred under circumstances held not disqualifying under certain State laws. The data gives some indication that, in July 1968, the unemployment insurance program probably was relatively more accessible to men than to the women who had separated from their jobs since the latter were more likely to have left voluntarily. It also showed that about 1 out of 4 job leavers were enduring long-term unemployment. Where State UI laws disqualify claimants for the duration of their unemployment on grounds of voluntary leaving, the effect is indeed harsh for a substantial proportion of these workers.

TABLE 2.—ESTIMATED DISTRIBUTION OF THE UNEMPLOYED BY BENEFIT STATUS, 1967 AVERAGE

[Number in millions]

	Number	Percent
Total unemployed [1]	3.0	100
Compensated unemployed (UI beneficiaries)	1.0	33
Covered but not compensated	.6	22
Eligible unemployed filing for noncompensable waiting weeks	.2	
Disqualified; not filing for benefits	.3	
Exhausted UI benefits	.2	
Not covered	.4	13
New entrants, reentrants	1.0	33

[1] Derived from estimates supplied by U.S. Department of Labor, Manpower Administration, Bureau of Employment Security, U.S. Employment Service.

NOTE.—Figures do not add to totals due to rounding.

[2] *Employment and Earnings and Monthly Report on the Labor Force*, vol. 15, No. 2. Washington: U.S. Department of Labor, Bureau of Labor Statistics, August 1968, p. 26.

The analysis of the job-loser and job-leaver data is cited as an example of the kind of value that similar treatment of data on temporary and permanent separations could have for program evaluation. Not only should it be possible to classify most UI claimants by temporary and permanent job separation, but, among temporarily separated workers, also by the period of time within which they expect to be recalled to work. One possible classification of the insured unemployed is as follows: Total temporary separations; recall expected within 4 weeks, 5 to 14 weeks, 15 or more weeks; recall date uncertain or unknown; permanent separations; and nature of separation uncertain or unknown. The time periods indicated for recall expectations were chosen to coincide with the usual basis for analyzing duration of unemployment experience.

A distribution of the insured unemployed into these categories would be an important gain for our understanding of the significance of the unemployment statistics. Further analysis by various claimant characteristics and duration experience might demonstrate how to identify at an early stage those unemployed who have more serious problems that may require other treatment in addition to the payment of benefits. With such guidance, it should be possible to organize efforts to concentrate assistance on the potentially long-term cases at the start of their unemployment.

There has been some research relative to these matters in recent years. Two recent pilot studies of the reasons for unemployment of claimants (conducted in Lancaster, Pa., and San Antonio, Tex.) have inquired into the circumstances of job separation. In New York City, the experimental Claimant Advisory Service Project (CLASP)[3] also went into the nature of the job separation and recall expectations. Additional studies in this area are currently in progress in Baltimore and Tucson. Most of these studies have gone far beyond simple identification of claimants by type of job separation. They have involved complex inquires and long periods for investigation of experience after the termination of employment. These matters are important and need further and, probably, lengthy study. It is not necessary, however, to await the outcome of this more extensive research to develop and install everywhere a uniform means of simple identification of claimants by the nature of their job separation and recall expectations. Indeed, the sooner such information is regularly compiled and made available, the greater the prospect for extending application of the valuable aspects of CLASP.

Duration of Unemployment

By far, most of those unemployed at any given time have had less than 15 weeks of unemployment. During 1967, an average of only 15 percent of all unemployed had been jobless for 15 or more weeks.[4] The proportion was about the same for the insured unemployed. Taking account of all persons who had any unemployment during a given year, data for 1966 (the latest available) show that about 1 out of 4 experience 15 or more weeks of unemployment in all during the year. In the recession years of 1958 and 1961, this proportion was higher—about 40 percent.[5] There are no comparable data for all those who draw unemployment insurance during a given year.

The duration experience of UI beneficiaries is usually most pertinent to evaluations of the statutory provisions that apply to duration. For this reason, a good deal of the emphasis has been on those claimants who exhaust their benefits. The data supplied regularly from the program describe this aspect of the problem fairly well. These include the volume and rate of benefit exhaustions and the distribution of exhaustees by the number of weeks of benefits drawn. The exhaustees, however, comprise only about one-fifth to one-third of all beneficiaries, depending on economic conditions. They therefore afford only a limited picture of the duration experience of all insured unemployed workers. Nor is the fact that all but two jurisdictions (Puerto Rico and South Carolina) provide a maximum of at least 26 weeks of benefits enough to characterize the extent of the program's protection.

Despite the relatively good coverage of exhaustion experience, there remain several important gaps in our understanding of the duration problem. It would be useful, for example, to have some

[3] Edward M. Caine, "CLASP Experiment: Improving Employability of UI Claimants," *Unemployment Insurance Review*, December 1967, Washington: U.S. Department of Labor, Manpower Administration, Bureau of Employment Security, pp. 1–3.

[4] *Manpower Report of the President.* (Washington: U.S. Department of Labor, April 1968), p. 240.

[5] Ibid., p. 269.

regular analysis for all States showing claimants classified by the duration of benefits for which they were potentially eligible and the proportion exhausting benefits in each category. A number of States have provided such analyses. They show a clear inverse correlation between the level of potential duration and the exhaustion rate. Frequent presentations of such facts for most, if not all, States would help to emphasize that much of the time the major reason for exhaustion is not so much the level of the maximum but the restrictive nature of the rest of the duration formula. There may be more to gain in terms of reducing the exhaustion rate by liberalizing the variable duration formula, or by adopting uniform duration, than by raising the maximum allowed somewhat above the usual 26 weeks. Whether to liberalize the formula may also depend on the characteristics of claimants with limited potential duration as compared to those who qualify for the maximum. This information, too, should be supplied.

In recent years, there has been increasing emphasis on assisting the long-term unemployed in other ways besides inscome support. UI legislative proposals by the Administration in 1965 called for a Federal program of extended benefits for firmly attached workers beyond the 26th week of unemployment, but with greater assurance that other measures would be applied as far as possible, including intensive vocational counseling, retraining, relocation, etc.[6] Access to these forms of assistance need not await the claimant's exhaustion of 26 weeks of unemployment insurance, however. Theoretically, State Employment Services should be spotting UI claimants who can benefit from these approaches much earlier. There is grave doubt that the State agencies are doing so to any great extent, especially amidst the present major preoccupations of Employment Service staff with the many manpower and antipoverty programs for the disadvantaged, hard-core, and generally noninsured unemployed. Certainly a standard identification of the claimant at the very beginning of his unemployment by the nature of his job separation and recall expectations would be a major step toward an early warning system for spotting potential long-term unemployment.

Much more recently, there has been active consideration in some quarters of another idea which would require an evaluation of a claimant's employment prospects at the end of about 3 months of unemployment. That evaluation would generate a plan of action for him including the undertaking of one or more measures of adjustment or rehabilitation to overcome vocational or other handicaps to employment. Those claimants who agree to follow the plan would be assured extended income support beyond the exhaustion of their State UI rights, if necessary. The Federal Government would bear the costs for the rehabilitative treatment, as well as for extended income maintenance.

This trend in thinking, particularly for dealing with the type of unemployment characteristic of nonrecession periods, seems to be in the right direction— that of early detection and treatment of the serious cases. In these times, when the supply of labor has been tight, even 3 months of unemployment begins to look excessive. This author has had the view for sometime now that the UI program should handle unemployment benefits extending beyond 13 weeks during nonrecession periods somewhat differently than short-term job loss, both in terms of the service of claims and the financing of benefits.

All these developments and considerations make more conspicuous the lack of adequate information on the duration experience of all insured unemployed. There should be data regularly available, and for all States depicting the distribution of all claimants by the number of weeks of benefits drawn during their benefit years, including some division by single and multiple spell experience. These should be analyzed by various claimant characteristics, by past or base-period employment and earnings experience, by potential duration allowed, and, of course, by the nature of the job separation. It would be important to relate to these analyses the extent and nature of employment services rendered to claimants in the several broad duration categories. Comparisons along these lines among claimants with compensated unemployment totaling, for example, less than 5 weeks, 5 to 13 weeks, 14 to 20 weeks, 21 to 26 weeks, and, where applicable, more than 26 weeks, might in time reveal more penetrating insights than we now have as to the reasons for contrasting reemployment experience among claimants. Those insights could possibly suggest the need for new approaches in administering income support for unemployed workers facing widely varying circumstances.

[6] H.R. 8282, title I, sec. 101 (Federal Unemployment Adjustment Benefit Program). 89th Cong., 1st sess.

Weekly Wages and Benefit Amounts

Considering that unemployment insurance in this country is a wage-related program, it is rather strange that there has been so little information provided with any regularity about the weekly wages of claimants. This gap is a glaring one to which many of the program's critics have pointed with telling effect. The UI program is probably the best source available for data on the prior weekly earnings, either actual or estimated, of unemployed workers.[7] In most States, the same can be said with regard to wages of all covered workers. Yet, the only information that has been supplied regularly and for all States is the average weekly wage paid in all covered jobs and by industry. Except for occasional studies and, recently, through some periodic compilations in a few States it has not been possible to say very much about the weekly wage levels of the insured unemployed.

This deficiency has probably injured the adequacy of the program more than has been realized. That the weekly benefit should replace half the wage loss has been a well-accepted goal in principle, but achievement of that goal has been frustrated for very large proportions of claimants ever since wage levels turned strongly upward since World War II. The reason for this result is the low level of weekly benefit ceilings specified in State UI laws. At benefit levels below these ceilings, the 50-percent wage-loss principle operates satisfactorily in most State formulas. But, close to half of all claimants are restricted to the benefit maximum. In 1967, the proportion at the maximum was three-fifths or more in about a dozen States.[8] In most of the country, the worker who earns more than the average wage cannot count on a 50-percent wage replacement when unemployed. Studies have shown that this predicament is aggravated for men with families to support.

Having, by and large, only such measures as the ratio of the benefit ceiling to the average covered wage and the proportion of claimants eligible for the maximum weekly benefit amount by which to evaluate the adequacy of the benefit provisions, the full extent of the program's shortcomings in this area is obscured. The Administration has proposed, throughout the early 1960's, a standard applicable to all State laws by which unemployed workers whose wages were as much as one-third above the overall average would be assured a 50-percent rate of compensation.[9] But even this goal would probably leave substantial proportions of men inadequately protected. Today, only one State (Hawaii) goes as far as the proposed standard. Only about 20 States assure a benefit equal to half pay to the average wage worker, and to few, if any, workers with above-average wages. The goal toward which most States appear to be working at present, is a benefit maximum no greater than half the average wage in covered employment, far short of what is required.

Data should be compiled and published regularly for all States which describe claimants by their weekly wage levels, and which do so separately for men and women. In time, the cumulative effect of this type of information would probably be to cultivate a much greater appreciation for the true proportions of the inadequacy of the weekly benefit provision and, hopefully, a greater willingness to adopt more meaningful improvements.

Weekly wage data of this kind would also encourage better understanding of the low-wage claimant. Such information would make it possible to determine more intelligently an appropriate level for the minimum weekly benefit amount and whether there is a need for a "weighted" benefit formula which yields a higher rate of wage-loss compensation for low-wage workers. The little evidence that is available indicates that the benefit floors are too low and that weighted formulas are misdirected.

Disqualifications

In 1967, State UI programs imposed a total of 1.8 million denials of benefits, nearly a third of them because the claimant was held not available to work and almost as many because the claimant quit his job voluntarily.[10] The sheer volume of

[7] In most States, earnings information is available on a quarterly basis only so that it may be necessary to estimate the weekly wage by dividing base-period high-quarter earnings by 13, a calculation implicit in most benefit formulas.

[8] *Unemployment Insurance: State Laws and Experience* (Washington: U.S. Department of Labor, Manpower Administration, Bureau of Employment Security, BES No. U–198–R, revised May 1968, chart 7).

[9] H.R. 8282, title II, sec. 209, 89th Cong., 1st sess.

[10] *Unemployment Insurance Statistics*, Washington: U.S. Department of Labor, Manpower Administration, Bureau of Employment Security, April 1968, p. 12.

these disqualifications should go far to counter widespread misconceptions by which the program's administration is often viewed to be lax. Despite the availability of these statistics, however, there has been little done to bring them out into the open through interpretive analysis, graphic presentation, or review articles, at least in recent years. Unfortunately, valuable opportunities have been missed for some needed public education in this controversial area.

One problem that may in part account for this lack of exposition has been the difficulties which the data pose in making reasonable interpretations, mainly because of the way in which the data are compiled. For example, the number of denials is not equivalent to the number of claimants involved; one claimant may be disqualified more than once during the year. We simply do not know how many claimants are denied benefits, or what kind of people they are compared to those not disqualified. Nor do we know for how long they have been disqualified. The major category of denials, those arising out of availability issues, constitute a conglomerate of disparate situations. These may range from unavailability for a definite, usually very short period (such as "out of town last week to attend a funeral") and unavailability for an indefinite, possibly extended period (such as "must stay home to care for sick child"). The data includes no distinction between denials made at the start of a claims series and those occurring after 1 or more weeks have been compensated.

To obtain the most advantage from the statistics on benefit denials, these additional pieces of information should be obtained. It may be enough to compile them on a sample basis, but they should be supplied regularly and in as many States as possible, preferably in all States. The great variation throughout the country in statutory disqualification provisions requires analysis that takes full account of these differences. Perhaps such treatment will contribute eventually to greater exposure and some evaluation of the anomalies present among the diverse States approaches, and to some encouragement of more reasonable and uniform practices.

Other Informational Needs

It is not difficult to extend the enumeration of knowledge gaps. In this writer's opinion, those discussed above are areas which, if adequately illuminated by the facts, offer the most potential for strengthening sound policy judgments and for improving public understanding of the program. Moreover, much of the information needed may be obtained from within the program itself rather than through time-consuming and frequently difficult external surveys. This is not to say that research of the latter type should be avoided. On the contrary, such surveys serve a very critical function in exploring subjects for which no internal data can be compiled. The emphasis here, however, has been on information that can be supplied more quickly, regularly, and universally.

There are other areas of a less critical nature which can also benefit from internal arrangements for relevant compilations and which have been generally neglected on this score. They include, for example, a more descriptive treatment of the covered labor force. Except for a few States, we do not know, and could know in most States, how many different people work in covered employment during the year; how many could qualify for benefits if unemployed; and how they are distributed by sex, age, color, industry, amount of covered earnings, and other factors. Such information would be especially helpful in determining the impact of alternative qualifying requirements by describing those workers whose benefit eligibility would be affected.

There are two aspects of unemployment insurance which account for a relatively small but not insignificant part of the program. They are interstate claims and partial claims. Nationally, interstate claims amount to roughly 5 percent of the total program. For some States, they represent a considerably higher proportion. With more interest recently in the possibilities for relocation of hard-core unemployed workers and a limited relocation program provided by the Manpower Development and Training Act, the assembly and analysis of information recorded for those filing interstate claims might indeed prove rewarding from this angle. In this connection, it would be important to distinguish between interstate claims which do not in fact reflect a geographic shift in location on the part of the claimant (such as those filed by claimants who live in a job market area that straddles a State line) and those claims which do. At present we do not even know how the total of interstate claims divide in this manner.

Partial claims range somewhat higher in volume—approximately 8 to 10 percent of all claims

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and substantially above this level in some States and in certain periods of the year. Aside from monthly gross volume figures on partial weeks compensated, by State, we have practically no information about these claims, let alone about the people who file them. The significant expansion of part-time employment opportunities in recent years poses some questions for unemployment insurance. Greater light on the character of the partial claims filed in the program might be helpful in confronting those questions.

Fraud is always a sensitive and potentially explosive subject in unemployment insurance. Administrative procedures of various kinds are applied in the program to minimize, detect, and punish fraudulent claims filing. Out of these efforts, certainly, there should be some information derived concerning the amounts and kind of fraud uncovered and the types of claimants involved. While the incidence of known fraud is quite low, would not the general availability of the facts that can be assembled contribute to better public perspective on a subject usually distorted wildly when it is discussed?

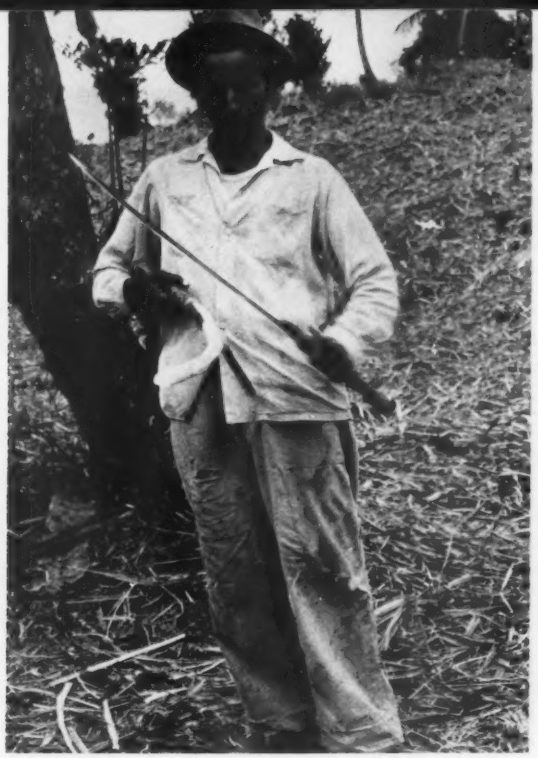
The Bureau has already provided a compendium of subjects for program research in unemployment insurance which is quite comprehensive.[11] Similar materials on UI financial research are also available. There is no need, therefore, to elaborate further on shortcomings in information in these areas. The subjects discussed in this article seem, however, to be so obviously in need of study, and so susceptible to enlightenment by the facts at hand that it appears valuable to place them in the forefront of our attention.

Unemployment insurance is too important a program in this country's efforts to maintain economic security and combat poverty to tolerate indefinitely incomplete access to essential facts. The costs involved in overcoming these deficiencies in our knowledge would be well compensated by the opportunity afforded to adjust and operate the program more intelligently and effectively. No doubt inertia, born of the program's extended institutional entrenchment, helps explain part of the reason for failure to move more energetically to close these seemingly obvious gaps. Inertia also inhibits the willingness to take a new look at old program concepts. It is just as important to avoid blind spots in our thinking as in our information.

[11] *Handbook on Unemployment Insurance Program Research*, BES No. U–259. Washington: U.S. Department of Labor, Manpower Administration, January 1968.

Temporary Disability Insurance Program In Puerto Rico

Luis F. Silva Recio



Farmworkers with migratory employment outside of Puerto Rico are protected under a private plan during the time they are out of the Commonwealth.

On June 26, 1968, the Commonwealth of Puerto Rico enacted a Temporary Disability Law. Thus Puerto Rico joins four other American States who have enacted similar laws, and is the first to do so since 1949.

Until very recently, the legislation in effect in the Commonwealth of Puerto Rico provided benefits only against some of the most common causes of loss of income among workers and their families. Persons able and available for work and involuntarily unemployed have been protected by the provisions of the Employment Security Act; wage losses due to job-connected illness or accidents have been covered by the Workmen's Compensation Law (State Insurance Fund). OASI has provided protection against permanent disability and old age; diverse risks have been covered for hired or self-employed automobile and truck drivers under the Chauffeurs Social Security Act.

In addition to the statutory protection, many private employers have established plans covering their work force against loss of income due to occupational and nonoccupatioinal illness or accident or even involuntary unemployment. Besides, several large nonprofit organizations, such as the Puerto Rico Teachers Association and the Puerto Rico Government Employees Association, have established income-protection plans for their members. Over 20,000 migrant farm workers who annually leave the island can obtain disability benefits under the Puerto Rico Agricultural Workers Plan.

One of the most common hazards workers frequently face in modern society, the loss of income

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Puerto Rican factory workers in the electronics industry are among those now covered under the new law.

Photo Courtesy Puerto Rico Information Service, Inc.

resulting from either temporary or permanent nonoccupational disability, was not covered by the Social Security Laws in effect on the island. The wage loss during such a period is a serious problem for the worker, his family, and society as a whole. The prevailing low wages, the high cost of living, and the demands imposed by modern life make it virtually impossible for the worker to save enough to meet his basic expenses during periods of noncovered disability.

To meet this need, the Commonwealth of Puerto Rico decided to add a nonoccupational disability benefit act to its social security legislation, already considered one of the most advanced among the political jurisdictions under the American Flag. On June 26, 1968, Gov. Roberto Sánchez Vilella signed Law 139, known as the Disability Benefits Act, which he regarded as "the most outstanding event in the social and labor legislation in the Commonwealth of Puerto Rico."

The Puerto Rico law provides a system of "contracting-out," similar to the arrangement in the statutes of New Jersey and California, under which coverage is provided automatically from a State social security fund, using a part of the administrative machinery of unemployment insurance, except with respect to those employers who elect to provide similar benefits under private plans. The Puerto Rico statute grants the Commonwealth Secretary of Labor full authority to establish nonarbitrary conditions for the approval of such private plans.

All industrial workers presently covered by unemployment insurance under the Employment Security Act also are covered under the nonoccupational Disability Benefits Act. Furthermore, it covers all workers in any agricultural activity. Coverage will apply to all establishments with two or more employees. It is estimated that a total of over 500,000 workers will be included, and that benefits will initially reach $7 million per year. The administrative cost is expected to be about 8 percent of annual contributions.

The program will be financed by 1-percent payroll tax up to a maximum wage of $7,800 a year per employee, one-half to be paid by the employer and the other half by the employee. The total contribution for agricultural workers will be paid by the Commonwealth of Puerto Rico according to the wages reported to the State Insurance Fund. The payment of benefits and the collection of taxes will begin on July 1, 1969. Benefits will range from $7 to $78 weekly, equal to about 50 percent of the employee's wages with a maximum duration of 26 weeks.

No person will be eligible for disability benefits in any period during which he is not under the care of a duly-licensed physician or chiropractor, or for any disability due to willful and intentional self-inflicted injury or illness Also, no person will be eligible for benefit payments for disability due to injury sustained by the claimant in the commission of an illegal act, or for any day of disability during which he performed work (insured or otherwise) for remuneration or profit.

The payment of disability benefits will begin on the 8th day of disability, or on the 1st day of hospitalization if the claimant is confined in a duly-licensed hospital—pursuant to the orders of physician—within the first 3 days of a period of disability, continuing thereafter, for the duration of the disability, but not for more than 26 weeks in any period of disability or any period of 52

Industrial workers can receive benefits under the new law.

consecutive calendar weeks. Moreover, the total of the disability benefit payment for any period of disability or for any period of 52 consecutive calendar weeks may not exceed one-half of the covered wages for the claimant's base year.

The act provides several limitations to avoid duplication of benefits. Consequently, workers will not be entitled to receive disability benefits for any period during which they are receiving benefits under the Employment Security Act or the Unemployment Insurance Act of any State. Workers receiving workmen's compensation benefits will not be entitled to receive disability benefits unless (*a*) the weekly amount is less than the disability benefit amount, in which case the difference will be paid as a disability benefit; (*b*) the workmen's compensation is paid for a previous permanent disability; and (*c*) the relationship between the work and the injury is questioned, in which case he will be entitled to receive benefits under the Disability Benefits Act in the first place.

No disability benefits will be paid for a period during which benefits, compensation, or other allowances are paid under (*a*) the Chauffeurs Social Security Act; (*b*) any employer's liability law; (*c*) any other temporary disability or similar law; (*d*) the Federal Employers Liability Act; (*e*) the Maritime Doctrine of Maintenance, Wages and Cure; and (*f*) the U.S. Social Security Act.

As previously pointed out, the Disability Benefits Act confers authority on the Commonwealth Secretary of Labor for the approval of private plans providing temporary disability benefits to employees. Private plans in effect at the date of approval of the act (June 26, 1968), established either by the employer alone or under a collective bargaining agreement, will be considered as an approved private plan, regardless of the requirements of the act, until the earliest date in which the employer may modify or discontinue it. In such case, the employer will notify the Secretary of Labor thereof. While a plan of this nature is in effect, employees covered by it will not be entitled

Puerto Rican factory workers in the electronics industry are among those now covered under the new law.

Photo Courtesy Puerto Rico Information Service, Inc.

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to receive benefits under the Disability Benefits Act, and the employer and employees covered thereunder will not be liable for the payment of contributions imposed by the act.

A private plan must meet the following requirements in order to be approved by the Secretary of Labor:

1. The benefits provided by the plan must be in every respect equal to or more favorable than the benefits provided by the public plan.

2. The plan must cover all of the employer's employees or a reasonable classification of employees.

3. The plan must not require higher contributions from the employees than those required under the public plan established by the Disability Benefits Act.

4. A majority of the employees must consent to the plan if they must contribute to it.

5. The plan must be underwritten through a contract with a duly-authorized insurance carrier or the employer must satisfy the Director of the Bureau of Employment Security of his financial responsibility, and post the corresponding bond or security.

6. Each claimant under the private plan must be notified of his right to appeal before the Secretary of Labor in the case of denied claims.

7. The plan must pay assessments for the payment of the costs of administration and supervision of the public fund with respect to private plans and must help to meet the fund's costs of disability benefits paid to workers while unemployed or while employed in noninsured work.

The Disability Benefits Act authorizes the Secretary to levy any assessments on the private plans deemed necessary to avoid an actuarial disadvantage to the public fund because of the establishment of private plans.

If the Secretary approves the establishment of a private plan, neither the employer nor the employees will be liable for the payments to the fund of the contributions established by the act while such plan is in effect, and covered employees will not be entitled to the benefits provided by the act.

A private plan may be established as of July 1, 1969, upon written application to the Secretary by February 28, 1969. Approved private plans may be discontinued or modified if so authorized by the Secretary.

New Work and the Prevailing Conditions-of-Work Standard

Bernard Streett

The unemployment insurance portion of the Social Security Act, as originally enacted in 1935, included provisions prohibiting the denial of unemployment benefits for refusals of jobs that were destructive of labor standards. These "labor standards" provisions by the express terms of the Social Security Act were made applicable only to refusals of "new work." They protected workers from benefit denials for refusing (1) jobs as strikebreakers, (2) jobs involving yellow-dog contracts (where the worker would have to agree to quit a union or not to join a company union), and (3) substandard jobs. On this last point, the original Social Security Act prohibits the denial of benefits to an otherwise eligible individual for refusing new work "if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality." This provision—the prevailing conditions-of-work standard, like the other two labor standards—has remained in the Federal law, unchanged since its original enactment and now appears in section 3304(a)(5) of the Federal Unemployment Tax Act.

The prevailing conditions-of-work standard was originally designed to prevent the use of unemployment insurance laws as a means to compel workers, under the threat of a denial of benefits, to accept substandard jobs and to protect locally established wages, hours, and working conditions that are standard for each line of work from the forced undercutting and unfair competition that would result if claimants could not freely refuse substandard jobs. The intended effect of the provision is expressed in the following brief extract from the reports of the Hearings Before the Committee on Ways and Means, House of Representatives, 74th Congress, 1st session (1935) on H.R. 4120:

> * * * Compensation cannot be denied if the wages, hours, or other conditions of work offered are substantially less favorable to the employee than those prevailing for similar work in the locality. The employee cannot lose his compensation rights because he refuses to accept substandard work. That does not mean that he cannot be required to accept work other than that in which he has been engaged; but if the conditions are such that they are substandard, that they are lower than those prevailing for similar work in the locality, the employee cannot be denied compensation.

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Each State has enacted in its unemployment insurance law a provision corresponding to that in the Federal law and each State has prefaced its provision with the words "*Notwithstanding any other provision of this act*" (or words of similar effect), thus giving it over-riding effect and making the prevailing conditions-of-work standard applicable to all offers of new work.[1]

In 1947, the Bureau of Employment Security issued a document that discussed the substantive meaning and application of the prevailing conditions-of-work standard (UCPL No. 130, Jan. 6, 1947; reissued in 1950, *Benefit Series Service, Unemployment Insurance*, 1–BP1–15). However, until very recently no statement has been made available for general distribution of the Bureau's or Department's views on the meaning of "new work" in connection with the prevailing conditions-of-work standard. Since, as we have noted, the Federal requirements as to this and the other labor standards apply to the States with respect to refusals of "new work" only, this has been a notable lack.

Furthermore, the term "new work" is, in some degree, ambiguous, and the interpretation of this term has been the subject of discussion between the Bureau of Employment Security and State employment security agencies on a number of occasions. Many of these discussions were precipitated by State decisions on benefit claims which reflected views differing from, and sometimes contrasting sharply with, those of the Bureau. These factors, coupled with many inquiries on the point and other indications of interest, suggested that the Department of Labor should make its view known on the subject generally. Accordingly, with the approval of the Assistant Secretary for Manpower, the Bureau has prepared, and issued to all State employment security agencies, an Unemployment Insurance Program Letter (No. 984, Sept. 20, 1968) interpreting the term "new work" for the purpose of applying the prevailing wage and conditions-of-work standard.

The interpretation, as expressed by the program letter, follows the well recognized principle that employment derives from contract. Whether an offer is of "new work" would depend on whether the offer is of a new contract of employment, as distinguished from the continuation of an already existing contract of employment. There are three general categories listed, each of which constitutes *new work*.

These three categories consist of offers of work to an individual (1) by an employer for whom he has never worked before; (2) by a former employer whom he had quit or who had discharged him or laid him off indefinitely; and (3) by his present employer, if a different job is being offered or the conditions of work differ from those contemplated in the contract of employment.

The first category is clear. When an offer of work is made to an individual by an employer with whom the individual has never had employment, clearly this is an offer of new work in the most obvious sense of the term.

In the second category, it may readily be seen that when a worker quits or his employer dismisses him, their employment contract is ended and their employer-employee relationship is completely terminated. If the employer later offers the individual work, he is proposing that they enter into a new employment contract, and this must be viewed as new work. Similarly, an offer of reemployment made by a former employer to an individual who had been laid off indefinitely for a period of unknown and unfixed duration, constitutes an offer of new work. Under these circumstances, the previously existing employment contract has been terminated by the layoff, and a reemployment offer that is made afterwards is an offer of a new employment contract, i.e., new work, which should be weighed against the prevailing conditions-of-work standard if it is refused.

The effect is the same even if the worker is recalled from his indefinite layoff under the provisions of a collective-bargaining agreement requiring that laid-off workers be offered recalls to work in the line of seniority, for individual workers incur no obligation under such an agreement to accept proffered employment. It may seem somewhat unlikely that a worker who is entitled to recall under a collective-bargaining agreement would be offered terms or conditions of employment under that agreement which are substandard.

Nevertheless, all offers of new work must be weighed against the standard whenever the worker questions the wages, hours, or working conditions involved or there is some other factor that puts the unemployment insurance adjudicator on notice that the job may be substandard. A contract

[1] Many State laws have extended the application of the prevailing wage and conditions-of-work standard to all work, old and new, by specifying that *no* work shall be deemed suitable which fails to satisfy the standard.

may provide, for example, that recall offers be made to laid-off employees on any available shift, in consideration of the mutual desire of the union and the employer to furnish as many employment opportunities to former employees as possible. Yet a particular shift may be substantially less favorable to an individual than the hours which prevail in the locality for the type of work which was offered.

The greatest thrust of the program letter is addressed to the third category of "new work." This category, that involves situations in which an employer transfers a worker who is now working for him to another job or changes the conditions under which the employee is to work, is the one which has given rise to most problems. When an employer proposes to an employee, as an alternative to a layoff, a change that would provide duties, hours, pay rate, or conditions of work which were not contemplated by the then existing contract of employment, that change, in effect, is a termination of the worker's old job, which is no longer available to him, and is an offer of new work, such as would entitle the worker to the protections of the standard if he refused the offer. To illustrate the point, assume that a woman is employed by a bank as an assistant accountant, but as an economy measure because of a decline in business, her duties are fully assumed by the accountant. She is offered, as an alternative to a layoff, a job as a clerk-typist in a branch office of the bank, at a rate of pay lower than that which she was earning. These jobs are entirely different, and to contend that under these circumstances, the change was not an offer of new work simply because the same employer was involved is incongruous.

The foregoing summarizes the basic principles invloved, but the problems of application are many and varied, and often complex. One such problem—what degree of change would be sufficient to break the contract of employment? Assume, for example, that an individual's job assignment remains unchanged, but his work station is moved from one room to another, or from one area of a large city to another area, or from one city to another. The line of demarcation between the existing job and new work may not be quite so clear here. Presumably, under most circumstances a move from one room to another would be of such little consequence that it would not constitute new work. This would not necessarily follow, however, if the duties involved working on small precision instruments and the move was from a bright room to a dark one. By the same token, a move of the work location from one city to another would usually be new work, but this would not necessarily apply if the employee was an industrial engineer whose regular duties required him to travel from plant to plant in various cities. In each of these instances and in comparable situations, the answer would lie in what was reasonably contemplated by the contract of employment. If the proposed change is of such consequence that would have the effect of breaking the existing contract of employment, the offer would be one of new work.

Another challenging problem, which will tax the ingenuity of factfinders, is to determine just what were the terms of hire, particularly when the employment contract was negotiated informally and was unwritten, Experience tells us that often employment agreements are reached with very little expression at the time of hire as to the precise terms of the agreement. A carpenter applies to a contractor and asks, "How much are you paying?" The contractor replies, "$4 an hour." The carpenter asks, "Do you have a lot of work?" The contractor replies, "Well you see we have a big job going here." The two then agree that the carpenter will start to work immediately, and a contract of employment has been negotiated. Just what are the terms? Guides to be considered in drawing conclusions on this point might include: The pattern of employment which evolves; the provisions of the applicable collective-bargaining agreement, if any; work practices which are common to the type of work; and the proximity or relationship of the particular duty assigned to the particular job.

Copies of the program letter have been furnished to all State employment security agencies and additional copies are available for agency personnel or other interested persons by request to Department of Labor, Manpower Administration, Room 550, 1726 M Street NW., Washington, D.C. 20210.

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The Standard for Claim Determinations

Gene Biglin

In January 1938, the Social Security Board issued the original version of a document which has, with remarkably little change, continued as an important part of unemployment insurance administration until the present. That document was titled "Statement of Policy on Separation Notices," and was designed to assist in making claim determinations. In April 1946, an expanded version was issued as a part of the "Guide for State Employment Security Administration." With minor changes, it was made part of the *Employment Security Manual* (pt. V, sec. 6010) in 1950, and has been in effect virtually in the same form since that time. A major revision has now been published and is to take effect in the States in the coming year.

The standard represents an important administrative application of basic provisions of Federal law—those which guarantee claimants an opportunity for fair hearing and provide for prompt payment of benefits when due. It also specifies what information is to be furnished to workers and to agencies by employers. The substance of the standard is involved in each of the more than 5 million monetary determinations issued annually in recent years, and the annual 4½ million or more determinations involving other aspects of eligibility for benefits.

Two basic kinds of administrative actions require the issuance of these determination notices. Although the content of the two types—monetary and nonmonetary—is entirely different, the reason for their issuance is the same—to afford a written and appealable document to claimants regarding actions taken on their claims. The monetary determination arises from the need to determine, as soon as an individual files a claim, whether, in view of employment and wages, he meets the qualifying requirements for benefit entitlement and, if so, the amount of benefits to which he is entitled. He must be advised of the information on which the decision is based in sufficient detail that he can assure himself of its accuracy. Nonmonetary determinations are required when a person is separated from work under conditions which might disqualify him, or some action or incident during a claim series raises a question of eligibility. In these cases the law, the facts, and the circumstances involved, as well as the decision itself and reasoning applied, must be furnished in writing.

In the early days of the program, the two kinds of notices were commonly combined in one form to be issued at the beginning of the claim series. Most States have now found that separate notices for monetary and nonmonetary actions are more effective and efficient.

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In the years since the standard was first issued, very substantial progress has been made in techniques for making these determinations. Procedures for reporting, storing, and retrieving wage information are now highly automated. In most States, preparation of the written notice of entitlement is now almost completely mechanical. Costs have been reduced, and more timely and accurate determinations made. In contrast, making nonmonetary determinations, which must always involve judgment, will always remain an individualized and largely manual operation. Much, however, has been done to provide aids and guides to determining authorities to improve the quality and consistency of claim determinations. A method of evaluating quality of determinations on a uniform basis also has been introduced.

The changes in the standard generally expand and clarify existing material, cover situations not previously touched upon, and take account of changes in State laws and processing methods which have occurred in the 30-plus years since it was first written. The requirements for information to agencies and workers have been clarified without basic change. Procedures for evaluation of alternative State provisions to determine compliance have been updated to reflect current Federal law procedural requirements.

Deduction From Weekly Benefit Amount

The need for updating and clarifying the standard first became evident when questions were asked about State practice in notifying claimants of their rights when deductions were made to offset an overpayment which might have been made years before. The standard was silent on this situation. The claimant was clearly entitled to, and did receive, a written notice at the time the overpayment was established. Should he receive another written, appealable notice when the determination was actually given effect at a later time, and resulted in deductions from his benefits?

In these cases the revised standard now makes clear that the claimant is entitled to an appealable notice that the old overpayment determination (which has become final and binding) will now be applied. Since this application may involve judgment, and always involves the possibility of error, appeal rights must be afforded. These appeal rights are limited in their scope. They furnish no basis for reaching back to upset or change the determination that has become final. They do, however, open up such questions as whether it still applies, whether it applies to the benefits now in question, and whether it is being correctly applied. Some State laws, for example, limit the amount that can be deducted from the weekly benefit, and there is also the possibility of an error in identity, or even in arithmetic in carrying out the transaction.

Resolution of this question led to the spelling out of specific notice requirements for all kinds of actions which might affect the amount of a benefit check. For example, the revised standard requires that the first time in a benefit year that an individual has earnings which affect the claim he be given a written notice, explaining in general terms the legal requirements of State law. This notice need not be individualized; that is, prepared specifically for the case at hand with names and dates spelled out. A printed explanation of legal requirements is sufficient. When other kinds of reductions are made, for example, for receipt of pensions or other deductible income, an individualized notice is required the first time the claim is affected. Thereafter, notices are not required each week so long as conditions do not change.

Content of the Appeal Rights Statement

The standard has always contained a requirement that "Each Notice of Determination must include a clear statement as to the claimant's appeal rights." Through the years, this condition was deemed to be satisfied if a printed statement somewhere on the notice form apprised the claimant that he could appeal if dissatisfied, and of the statutory time limit for appealing. Closer scrutiny of typical statements used on State notices revealed that they were far from "clear," as required by the standard. The information was usually briefed in such a manner as to be of little practical use to a person who might be dissatisfied with a determination. All of this led to expansion of the requirement for a "clear notice" to incorporate an explanation of the manner in which the appeal must be filed, the circumstances which extend the period for appeal (nonworkdays, good cause, etc.), and that information about and assistance in filing the appeal can be obtained at the local office.

The revision of the standard should in turn lead to State revisions of their determination notices

that will improve the quality. All too often the inadequacies of present determination notices have escaped recognition by personnel in the States involved. Probably this is because State personnel can usually work well with their own forms, as they have learned to understand them. At the same time, there are frequent complaints about unintelligible notices received from other States on interstate claims. If career Employment Security people have difficulty, it follows that many forms must be completely mystifying to the 5 million or more workers who receive them each year.

Several years ago the Bureau analyzed most notices used by States at the time. It was found that the forms fell far short of their goal, which is to inform claimants of their entitlement under the law. Reasons for the shortcomings were many, but principally these failures were material:

Forms designed for facility of data processing—not with understandability in mind;

Abbreviations, codes, and technical jargon—needlessly substituted for clear language;

Important explanations, such as reason for ineligibility—either omitted entirely or introduced in such a roundabout way as to be almost useless (particularly when the recipient was referred to another publication for the explanation);

Notices cluttered with lengthy, hard-to-understand excerpts from the law, with no explanation of the effect of the provision on the claim;

Form design and such small print that some material was virtually unreadable.

The revised standard was cleared with the States to the extent possible at two different stages. In December 1967, Regional Unemployment Insurance Directors discussed the draft with a State in each region. In April 1968, the Unemployment Compensation Committee of the Interstate Conference was furnished with the draft and most States had an opportunity to review and comment. The published document contains many changes suggested by the States.

We believe that implementation of the changed standard can be carried out as a joint State and Federal enterprise to improve substantially the quality of administration.

"Insubordination" as Misconduct

Joseph H. Barker

"**Insubordination,**" generally defined as the state of being disobedient to constituted authority, goes to the very heart of the employer-employee relationship. It is commonly accepted that an employer generally has the prerogative of managing his business, and of instructing his employees in connection with their performance of work. Thus, at least within the framework of an employee's performing within his conditions of hire, an employer may instruct a worker on such matters as the performance of a particular task, work priorities, the use, maintenance, and security of equipment, his attention to duties, and his attendance at work. Such instructions, typically, are considered a part of the employment "bargain."

The employer's instructions, themselves, may take various forms. Some, made at the time of hire, may be general, and given often by individuals other than those who will be the employees' immediate supervisors. Long-term formal instructions frequently are made in the form of company rules, which may be posted throughout a work area or otherwise widely publicized. Much more common and typical of almost *all* jobs, are the day-by-day instructions given a worker by his immediate supervisor. Finally, there may be certain areas of understanding between employers and employees, which might be considered as "implied" instructions. Examples might be the worker's avoidance of any showing of disrespect for his employer or supervisor, and his acting so as not to disrupt harmonious work relations between the employer and other workers or to detract from the employer's relations with his patrons.

Should every violation of an instruction or order by an employer result in a finding that the resulting discharge was for "misconduct connected with the work?" Should the answer be different when the instruction is in the form of a company rule? Are inadvertence, lack of intent to injure the employer or the worker's belief that his failure to abide by an instruction may be to the employer's interest in a particular situation, factors to be considered? Are there situations in which a worker has a positive *duty* to his employer to "speak up" with respect to an instruction given him?

Questions such as these are typical of those commonly confronting administrative appeals authorities and courts in benefit appeals decisions on the "misconduct" issue.

In *Mary A. Beatty* v. *Automatic Catering, Inc., and Industrial Commission of the State of Colorado* (No. 22897, Mar. 11, 1968, 438 P. 2d 234), the Colorado Supreme Court decided the benefit rights of a coin machine collector and attendant whose employer had testified that she had been discharged "* * * for an accumulation of insubordinate acts, the culmination of which was a dishonest act."

The court stated that the claimant had been discharged, primarily because she had shown on her

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time card a departure time of 3 p.m., when, in fact, she had left her place of employment "no more than one-half hour" earlier. Her work hours were from 7 a.m. to 3 p.m. The claimant's uncontroverted testimony was that she had left early because the company president had given her permission to go to the bank on company time to get change needed at the job location.

Other incidents cited by the employer involved phone calls, one taking place about 1 month prior to the claimant's discharge, in which she had reported to her employer that she was home when, actually, she was at work. The claimant explained this as a means of drawing her employer's attention to the lack of certain supplies at her work location. The court found that the employer's contention concerning the remaining calls—that they were in violation of company policy against the discussion of company business with other than company officials—was not supported by the record.

The court held that the trial court had erred in affirming the Industrial Commission's decision that the claimant was entitled to "No Award," under section 82–4–9(5)(b)(i) [now section 82–4–8(6)(b)(viii)] which defines "insubordination" as a basis for benefit denial. In further directing that the claimant be awarded benefits, the court stated, in part:

> Here, the uncontroverted testimony of the claimant that she had permission to go to the bank on company time appears clearly to be conflicting with the requirement that the employee be on duty at her place of employment from 7 a.m. to 3 p.m., each working day, and that her beginning and ending times be recorded on her time card in accordance with company instructions. Under these circumstances, the time card incident does not appear to be of the character of "deliberate disobedience of a reasonable instruction" which is the basis for a "no award" grant as contemplated in C. R. S. 1963, 84–4–8(5)(b)(i), supra.
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> Insubordination connotes a willful, deliberate, or purposeful refusal to follow the reasonable directions or instructions of the employer. There is no evidence of this character as shown from the record with reference to these three incidents, although the vice president of the employer company testified "Mrs. Beatty was discharged for an accumulation of insubordinate acts, the culmination of which was a dishonest act." The evidence as shown from the record fails to lend any support to this testimony which of itself lacks any probative value, and amounts only to the witness' conclusion of law, which the Commission referee should have disregarded entirely.
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>
> It is our conclusion * * * that the primary incident involving the time card which precipitated the discharge of the claimant and the two other contributing incidents do not, as a matter law, constitute acts of insubordination or acts of deliberate disobedience of a reasonable instruction of an employer * * *.

The situation with which the court dealt thus appears to have involved, essentially, conflicting instructions from the employer, on the basis of which the court found that there had been no "insubordination," and no "deliberate disobedience of a reasonable instruction." Noteworthy also is the court's characterization of a witness' statement, that the claimant had been discharged for "insubordinate acts" and a "dishonest act," as amounting only to a conclusion of law.

Concern with the "reasonableness" of an instruction by an employer, the violation of which resulted in discharge, is also reflected in a decision (Case No. 68–2684, Aug. 29, 1968) of the California Unemployment Insurance Appeals Board. On September 14, 1967, the claimant, a shipping department foreman, had been advised to spend more time in supervision. At that time, his supervisor also asked for a report, to be submitted at the end of 3 months, showing a "daily breakdown" of how the claimant spent his time on the job and, particularly, the proportions of time spent in supervisory, as opposed to nonsupervisory work.

Twice in December 1967, and on or about February 1, 1968, the supervisor spoke to the claimant about the report. On February 14, 1968, the supervisor, not having received the report, addressed a memorandum to the claimant, stating that he considered the nonsubmittal of the report as insubordination, and that, if the report was not on his desk at 9 a.m., on February 16, the claimant would be discharged on that day.

On February 15, the supervisor found on his desk a letter from the claimant, prepared by his attorney, stating in part, that:

> * * * my records and recollection indicate that from the date of the meeting, September 14, 1967, to the present time, 30 percent of my time has been spent in supervision and 70 percent of my time has been spent in actual work.

(The Board found that, while the claimant had kept no record of his time expenditures, neither had he told his attorney that he had any records.) The claimant was told that this letter did not suffice, and was terminated that day.

The Appeals Board reversed the decision of the referee, and held that the claimant had been discharged for misconduct connected with the work:

It is obvious to us from a reading of the record that the claimant had done nothing over a 5-month period towards compliance with the instructions to prepare a "daily breakdown" of his time until the final ultimatum was given him on February 14, 1968. This is true despite the fact that he had been questioned several times as to the progress of the report. It is equally apparent that, when he was faced with either submitting the report, or being discharged, the breakdown given in his report was based on nothing more than an educated guess as to the percentage of time spent in supervisory versus nonsupervisory duties, without any records on which to base his conclusions.

Even accepting that the precise form which the report was to take was not made known to the claimant, he was aware of the purposes for the report, and that it was to be based on a "daily breakdown." With this background it is not believable to us that he could have assumed that he could at the end of the 5-month period submit a report such as he did with no specifics and no substantiation and thus meet the requirements that had been placed on him.

We do not know why the claimant chose to ignore the instructions given him, but we are satisfied he willfully chose to do so over an extended period. The instructions were a reasonable method of determining the claimant's activities and his progress as a foreman and no reasonable basis appears for the claimant's failure to carry them out. We conclude, therefore, that the resultant discharge was for misconduct in connection with the claimant's work.

Appeal bodies, at times, have been more concerned with the claimant's "disobedience" of his employer's instruction than with the "reasonableness" of the instruction, or the circumstances surrounding the disobedience. A decision of the Washington Employment Security Department (Commissioner's Decision No. 8015, June 17, 1968; *BSSUI*, MC–15.15–75) may be illustrative.

In this case, the claimant, a jig builder, had planned to be married on February 3, 1968, in New Jersey, since his future mother-in-law, afflicted with terminal cancer, was unable to travel to the State of Washington for the marriage ceremony. In the first part of January 1968, the claimant had asked his immediate supervisor for 2 weeks' time off in order to be married, but was later advised that his application had been rejected by the senior supervisor. The immediate supervisor, upon the claimant's further inquiry, indicated that the claimant had a legitimate reason for being on leave, but he could not grant the request because final approval had not been obtained from the senior supervisor. It was further found that the employer does not grant a leave of absence, except for an illness, and that the final decision on granting a leave of absence is left up to the senior supervisor.

On January 26, 1968, the claimant advised his supervisor that he would leave at the end of his shift, in order to carry out his marriage plans, but that he would return to work on February 12. Upon his return, he found that he had been terminated for absenteeism.

The Commissioner set aside the appeal tribunal's decision, and held that the claimant had been discharged for misconduct connected with his work:

We concur with the appeal tribunal that the sole reason for appellant's discharge was unexcused absenteeism stemming from appellant's decision to disregard his employer's refusal to grant him a temporary leave of absence for the purpose of getting married in New Jersey. While we have considerable sympathy with the appellant's motives in journeying to New Jersey to get married at a time and place which would accommodate his mother-in-law's physical plight, we cannot overlook the fact that his actions in this regard constituted a clear renunciation of his employer's wishes for him to remain on the job. This Department has no authority to go behind an order of an employer given to one of its employees (such as that found present in the instant case) to determine whether the employer was justified in insisting on the continued presence of the employee on the job. The granting or denial of a leave of absence by an employer is an act solely within the employer's discretion. In refusing to comply with the employer's request that appellant remain on the job, appellant violated a standard of behavior which the employer had a right to expect and he therefore must bear the consequences of that decision. We conclude that appellant's disregard of a managerial decision, constitutes misconduct within the meaning of section 74 of the act * * *.

Particularly significant is the Commissioner's conclusion that the Department of Employment Security lacks authority to "go behind" an employer's instruction to an employee. The net effect of such an approach would appear to be that the disregard of *any* managerial decision would be considered to be "misconduct," without regard to its reasonableness in the light of the circumstances in the case. Under such a view, would not the term "misconduct" be divested of its usual meaning?

A Michigan referee decided a case (Decision No. B68–930, May 16, 1968, affirmed by the Employment Security Appeal Board in Decision No. B68–930–36308, Sept. 16, 1968) in which the employer's instruction was in the form of a company rule. The claimant, a department store salesclerk, was discharged following a prior warning, because in violation of a company rule, she had purchased an item in the store which had not been rung up by

another clerk or supervisor. The claimant explained that she had not abided by the store rule and had processed the purchase herself because of the pressure of work.

The referee imposed a disqualification, saying:

> It must be recognized that the rule in question is considered essential in the employer's business and that it is strictly enforced. It is also clear that claimant on the day in question was in violation of the rule and therefore it must be held that claimant was discharged for reasons which constitute misconduct in connection with the work * * *.

The latter two decisions suggest a question as to whether it is the *fact* of a worker's violation of his employer's instruction or rule which is paramount, not the circumstances of such a violation. In the Washington case, for example, it was the employer's policy to grant a leave of absence only in the case of illness, and then only at the senior supervisor's discretion. Assuming other facts which, perhaps, are more compelling, would the Commissioner be bound not to discount this employer's refusal, under its leave of absence policy, to grant time off to enable an employee to obtain emergency housing for himself and his family, following destruction of his home and other belongings by fire?

If a worker believes that an instruction given him is erroneous, what should he do—proceed to carry out the instruction, notwithstanding his belief that it is wrong, or try to get the supervisor to agree to a different course of action? A Tennessee appeals referee's decision (No. 68–AT–680, Mar. 18, 1968; affirmed by the Board of Review in decision No. 68–BR–384, July 11, 1968) concerned a claimant who chose the second alternative.

The claimant, an employee of a sash and door company, was discharged after a "dispute" with his foreman over unloading an item with an electric forklift. The claimant contended that it was unsafe to unload the item with the forklift. However, the foreman, who was inexperienced, insisted that the claimant do so. The superintendent, in settling the matter, fired both the claimant and the foreman.

On these facts, the Board of Review affirmed the appeals referee's decision that the claimant had not been discharged for misconduct in connection with the work. In this connection, the appeals referee stated that he had not found that the claimant "* * * did anything of his own volition with the intent to injure the employer's interest." He also cited the verification, by a witness experienced in the use of a forklift, of the claimant's testimony that operation of the forklift, as he had been instructed, would have caused property damage.

Thus, in this instance, the claimant had discussed with his supervisor an instruction which he believed to be erroneous, an action found not to have been taken with any intent to injure his employer. In the case which follows, benefits were denied to the claimant, partly upon the rationale that he should have consulted his employer to obtain the help and guidance necessary to his performance of an assignment.

In this decision (No. 4083–LS–68, Aug. 29, 1968) by a North Carolina Appeals Deputy, the claimant was a truckdriver and groundman for an engineering company which was engaged in erecting towers for the installation of high-powered electric transmission lines. The claimant had been instructed by his foreman to tighten bolts on crosby clamps for the erection of a tower and gin pole. He failed to tighten the bolts as instructed, however, and was discharged after the tower and gin pole fell. As a result, the employer was caused thousands of dollars in damages.

The testimony of both the claimant and the employer's witness was contradictory as to the circumstances under which the claimant had been discharged, including such matters as the condition of the equipment which the claimant was using, and whether the tower and gin pole would have fallen, had the claimant tightened the bolts correctly. The claimant further contended that he had been assigned to perform the job by himself, although, in the past, he was given help.

The appeals deputy held that the claimant was subject to disqualification, stating, in part:

> It is to be noted that the claimant does not deny that he failed to tighten the bolts properly. As to whether or not the tower and the gin pole would have fallen if the claimant had performed his task properly by tightening the bolts in the proper manner, [this] is strictly in the field of speculation. If the claimant had had any misgivings or apprehension about his ability to carry out the task properly, that of tightening the bolts, it would have been incumbent upon him to request his employer for assistance and instructions, and there is nothing in the evidence to show that he did so. Therefore, under the facts in this case, the claimant must accept the responsibility for his actions and since he failed to tighten the bolts properly as he was instructed to do and was discharged for this reason—that is the damage to thousands

of dollars worth of his employer's property, it is concluded he was discharged for misconduct in connection with his work.

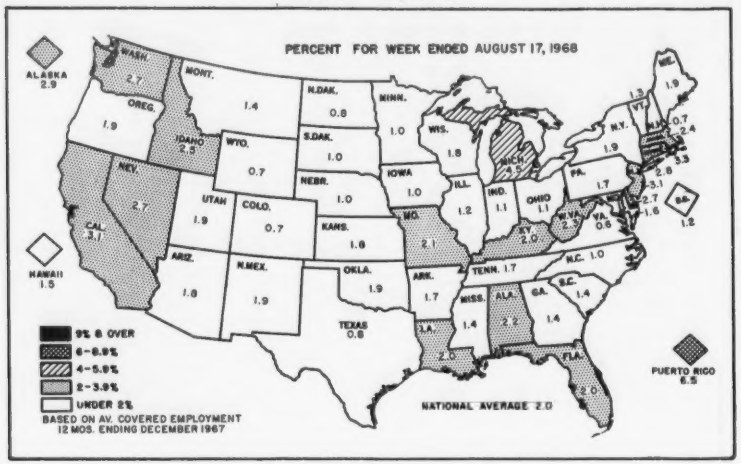
The appeals deputy thus appears to have concluded that the claimant, having failed in his duty either to perform his task properly, or to seek the necessary guidance for doing so, must be considered responsible for the results of his actions. In the Tennessee decision, on the other hand, the test, partly, was whether the claimant, through his actions, had intended injury to his employer. Under this test, would the actions of the North Carolina claimant demonstrate an intent to injure the employer?

In summary, the decisions discussed above reflect differences in the weight given, on the one hand, to an employer's prerogative in instructing his employees, and his normal expectation that such instructions will be followed, with that given the circumstances in which such an instruction had been disregarded. Should appeal tribunals seek to distinguish between the intent entering into the disregard of an instruction, and a willful or wanton disregard of the employer's interest, as such? Are the two necessarily the same?

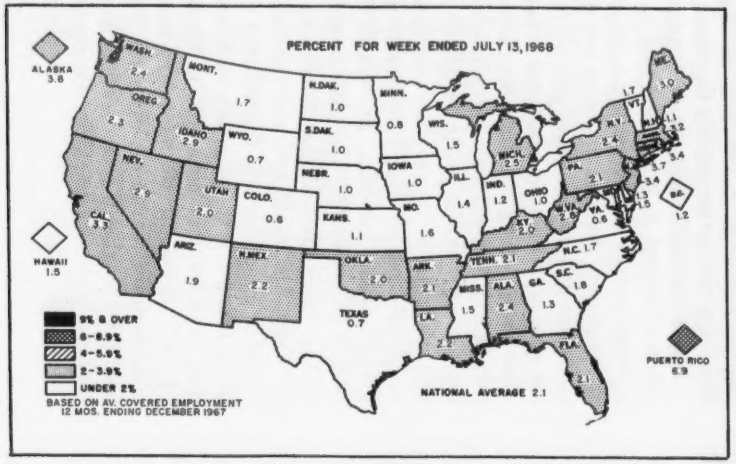
May a claimant's action be characterized as "misconduct," except as it is found that he had failed to comply with his obligation, as an employee, to his employer? Should employee compliance with an instruction which, under the circumstances of the case, would not be considered "reasonable," be considered an obligation to the employer, the violation of which would constitute misconduct? When the worker's obligation to comply with his employer's rule or instruction conflicts with his overall obligation to act consistently with his employer's best interests, to which "obligation" should he respond? If he may choose the latter, will his determination that there is a conflict, and of where his employer's best interests lie, be allowed to govern or will the tribunal second-guess him? Finally, is the monetary or other loss which may be occasioned an employer through an employee's disregard of an instruction a proper consideration in rulings upon the "misconduct" issue? Or is this a consideration more properly confined to civil actions for damages?

STATE INSURED UNEMPLOYMENT AS PERCENT OF AVERAGE COVERED EMPLOYMENT

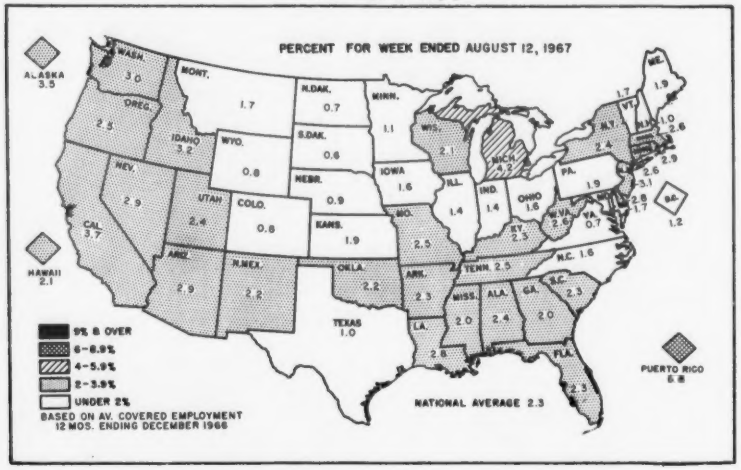
LATEST MONTH



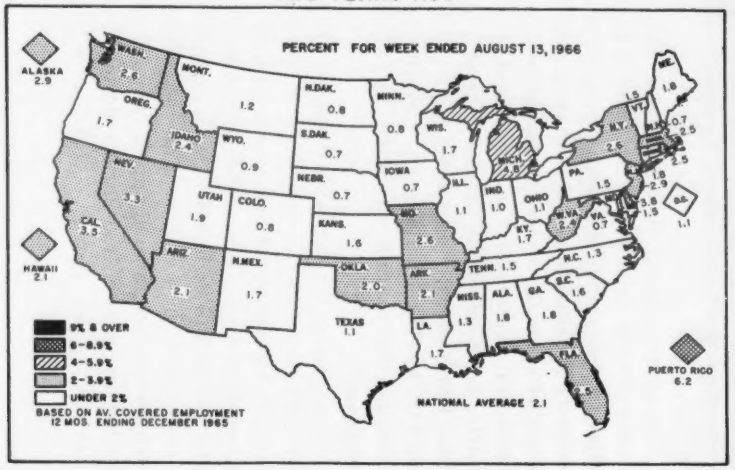
PREVIOUS MONTH



ONE YEAR AGO



TWO YEARS AGO



Insured Unemployment*

Average weekly insured unemployment during the month of August 1968 was moderately lower than in both the previous month and year. The weekly average of insured unemployment in August, at 954,700, was 4.0 percent below the 991,500 for July and nearly 10 percent lower than the 1,059,500 figure reported in August 1967. This marked the second time in 16 years that the average weekly insured unemployment for August was this low. The recent low average of 928,400 occurred in August 1966. In general, recalls of workers after vacation shutdowns, automobile model changeovers, and inventory taking contributed to the State declines in insured unemployment. On a seasonally adjusted basis, the over-the-month drop was about as expected, the August average, at 1,137,200, compares with the 1,150,100 of the previous month. The August insured jobless rate was 1.9 percent—down from July's 2.0 percent and the 2.2 percent of a year earlier. The seasonally adjusted rate of 2.3 percent (unchanged over the month) was the lowest for any August in the postwar period.

Most States Show Declines

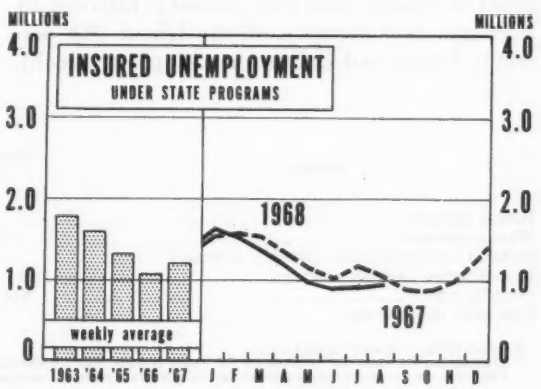
Thirty-six States reported declines in insured unemployment between July and August 1968. States reporting the largest declines were: New York (22,400), California (11,600), Pennsylvania (7,300), North Carolina (6,400), Massachusetts (5,200), Illinois (4,600), New Jersey (3,700), and Indiana (3,100). In New York, the insured joblessness drop was mostly the result of improvements in the food processing and apparel industries; while in California, the decline was primarily due to a pickup in construction, food processing, lumber, trade, and services. However, this overall improvement was tempered by an increase in joblessness among workers in the transportation equipment industry. In Pennsylvania, the overall drop in insured unemployment reflected greater activity in textiles, apparel, and electrical machinery. Here too, the pickup was modified by an increase in joblessness in the primary metals industry. In North Carolina, the drop was centered in the tobacco and textile industries, while in Massachusetts, it was attributed to hirings in apparel, leather, and electrical machinery. Illinois, New Jersey, and Indiana were the only other States with declines exceeding 3,000.

Sixteen States Reported Increased Joblessness

The largest over-the-month increase in insured unemployment was reported in Michigan (20,100) and was primarily the result of automobile model changeover layoffs. In Puerto Rico, an increase of 10,700 in joblessness between July and August was due to continued seasonal cutbacks in the sugarcane industry. In five other States—Missouri (4,300), Georgia (2,900), Washington (1,900), Kansas (1,800), and Wisconsin (1,100)—joblessness rose over 1,000.

Annual Trends

Forty-one States reported decreased unemployment insurance activity for the month of August



Prepared by Office of Program Reports and Research, Bureau of Employment Security, Manpower Administration.

Week ended—	Initial claims [1]		Insured unemployment [1]	
	1968	1967	1968	1967
July 6	266, 700	322, 900	981, 600	1, 138, 700
July 13	242, 600	309, 100	1, 022, 000	1, 211, 600
July 20	216, 800	282, 400	974, 000	1, 184, 100
July 27	238, 100	243, 700	975, 000	1, 204, 600
August 3	[2] 235, 700	250, 400	1, 011, 700	1, 713, 500
August 10	222, 200	193, 100	1, 021, 100	1, 131, 800
August 17	160, 000	174, 600	994, 400	1, 064, 000
August 24	148, 900	160, 700	935, 700	994, 400
August 31	139, 100	163, 100	845, 300	930, 800
September 7	135, 900	156, 700	836, 300	938, 200
Weekly averages				
July	240, 400	287, 700	991, 500	1, 184, 200
August	173, 800	186, 800	954, 700	1, 059, 500

[1] Refers to State programs.
[2] Revised figure.

1968, as compared to the same month in 1967. New York (23,400), California (19,700), and Ohio (8,200) had the largest decreases. In New York, pickups in the apparel, service, and chemical industries accounted to a large extent for the decline in joblessness, while in California, the drop was largely due to greater activity in construction, food processing, trade, and services. The reduction in Ohio reflected a generally improved employment condition, particularly in metals, electrical machinery, and transportation equipment.

Eleven States reported increased joblessness for the month, compared with the August 1967 levels. Of these States, the greatest rise occurred in Michigan (up 13,400), followed by Connecticut (up 6,300). Other States with increases of 1,000 covered jobless or more were New Jersey and Rhode Island (1,100 each). These increases partly reflected changes in the timing of the automobile model changeovers.

Unemployment Insurance Rates

The highest rate of insured unemployment was noted in Puerto Rico (6.6 percent), followed by Michigan (3.8 percent), Rhode Island (3.3 percent), Alaska and California (3.0 percent each). Eight States had rates below 1.0 percent—North Dakota and Nebraska (0.9 percent), Minnesota (0.8 percent), Colorado and Texas (0.7 percent each), New Hampshire, Virginia and Wyoming (0.6 percent each).

Insured Joblessness Under Federal Programs Varied in August

The weekly average of insured joblessness under the UCFE program (covering Federal civilian workers) during August was 19,600, some 600 below the average in the previous month, and 200 higher than a year earlier. Under the UCX program (covering ex-servicemen), insured joblessness rose over the month from 30,200 per week to 32,100. A year earlier, when separations of Vietnam veterans were fewer, the UCX volume totaled 25,100.

Initial Claims at Lowest August Total in 16 Years

A total of 778,400 initial claims were filed for benefits by jobless workers under State programs during August. This was the lowest total for the month since 1952, being almost 100,000 less than a

Activity [1]	Number or amount August 1968	Percent change from—		January–August cumulative (in thousands)	
		July 1968	August 1967	1968	1967
Initial claims [2]	778, 400	−27. 9	−10. 7	7, 208	8, 240
Weeks claimed [2]	4, 275, 600	−2. 7	−17. 8	42, 255	45, 907
Insured unemployment (weekly average) [2]	954, 700	−3. 7	−9. 9	1, 207	1, 319
Beneficiaries (weekly average)	803, 500	+4. 3	−15. 1	1, 031	1, 127
Benefits paid [3]	$149, 996, 200	+3. 0	−13. 2	$1, 494, 630	$1, 554, 003
Claimant exhaustions	64, 200	−9. 9	−15. 7	618	606

[1] Data relate to State programs only.
[2] Includes agent State claims taken by the Virgin Islands; also includes data under Puerto Rico sugarcane program.
[3] Monthly data represent gross amount; cumulative data represent net amounts.

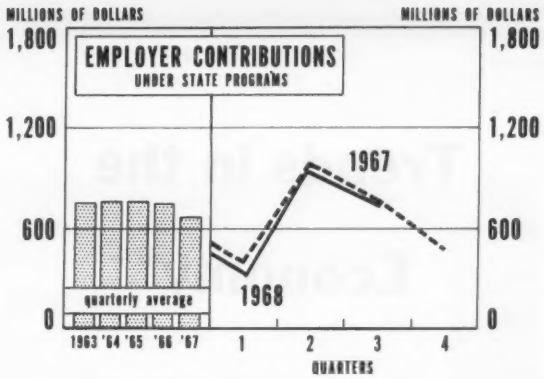
year earlier and about 50,000 below the August 1966 figure (the previous low). On a weekly average basis, initial claims were 173,800 per week during the month, compared with 240,400 in July and 186,800 in August 1967. (The above figures exclude transitional claims.)

Monthly Benefits Up

Workers covered under State programs received some $150 million in benefits during August 1968—$4.4 million more than in the previous month and $22.8 million below the amount in August a year earlier. All unemployment insurance programs showed increases in benefits between July and August. UCX benefits, at $5.9 million, were $620,000 higher and UCFE benefits totaled $3.7 million, or $68,000 more than the previous month. Under the Railroad program, benefits rose to $3.1 million, compared with $2.3 million in July.

Average Weekly Benefit Checks Up Slightly From July

For persons totally unemployed during the month of August, the average weekly benefit check of $43.73 represented $1.34 more per week than in July. Five States during the month reported weekly checks averaging $50.00 per week or more—Michigan ($54.35), Wisconsin ($51.41), New Jersey ($51.33), California ($50.41), and Delaware ($50.35). Weekly checks of less than $30.00 were paid out by Puerto Rico ($24.64), Mississippi ($26.79), North Carolina ($28.47), and West Virginia ($29.78). For 17 States, the weekly checks



ranged between $40.00 and $49.99, and for an additional 26 States the range was from $30.00 to $39.99. The average weekly benefit under the UCX program in August was $46.10, compared with $45.65 in July; under the UCFE program, the average August check was $44.28, up by 12 cents over the month.

Benefit Exhaustions Lower Than July

Some 64,200 persons exhausted their benefits under the State programs during the month of August—about 7,000 fewer than in July and 12,000 less than the comparable month a year earlier. As in July, California had the largest number of exhaustions—10,905, while the other States with 2,000 or more benefit exhaustions during August were New York (5,400), New Jersey (4,200), Illinois and Puerto Rico (3,600), Michigan and Massachusetts (about 2,900 each), Pennsylvania, (2,500), and Florida (2,200).

Trends in the Economy*

The long rise in the Nation's economy was sustained in September, as key economic indicators denoting the levels of business activity and employment climbed from, or remained close to the record highs of recent months. Personal income continued its uptrend, and the index of industrial production, although down somewhat from early summer, remained at a high level. In the area of residential construction, activity was vigorous, with both housing starts and permits for future construction posting records for the year thus far. Changes in employment developments, however, were not significant; employment continued at the same level on a seasonally adjusted basis, while the unemployment rate, edging up by 0.1 percentage point, held close to the post-Korean low.

Business Activity

The third quarter of this year ended with *Gross National Product* advancing by $17.9 billion to a seasonally adjusted annual rate of $870.8 billion. Except for the first and second quarters, when record gains were set, it was the largest advance in 10 quarters and marked the fifth consecutive increase of considerable magnitude since the slowdown in the first half of 1967. Price increases accounted for almost half of the increase so that the quarter-to-quarter rise of about 2 percent reflected an increase in real output of slightly over 1 percent.

Personal consumption expenditures, thus far undaunted by the income tax surcharge, spurted upward by $13.4 billion to an annual rate of $541.3 billion. The advance, representing three-fourths the total GNP rise, was sharply higher than the $8.5 billion gain of the second quarter, with all major components—durables, nondurables, and services each advancing about equally. (The effects of the income tax surcharge showed only in the levels of disposable personal income.) The $6.5 billion gain in the third quarter was only about half that of the two preceding quarters. Consumers managed to increase their purchases, in part, by cutting back on savings, with the savings rate dropping from 7.5 percent in the April–June quarter to 6.2 percent; this was the first time that the saving rate has dropped below the 7.0 percent level since the second quarter of 1967.

Gross private domestic investment, at a $127.4 billion annual rate was virtually unchanged from the second quarter; a $3.2 billion rise in nonresidential investment counterbalanced a drop of the same magnitude in the rate of inventory accumulation; spending on nonresidential investment eased by $100 million.

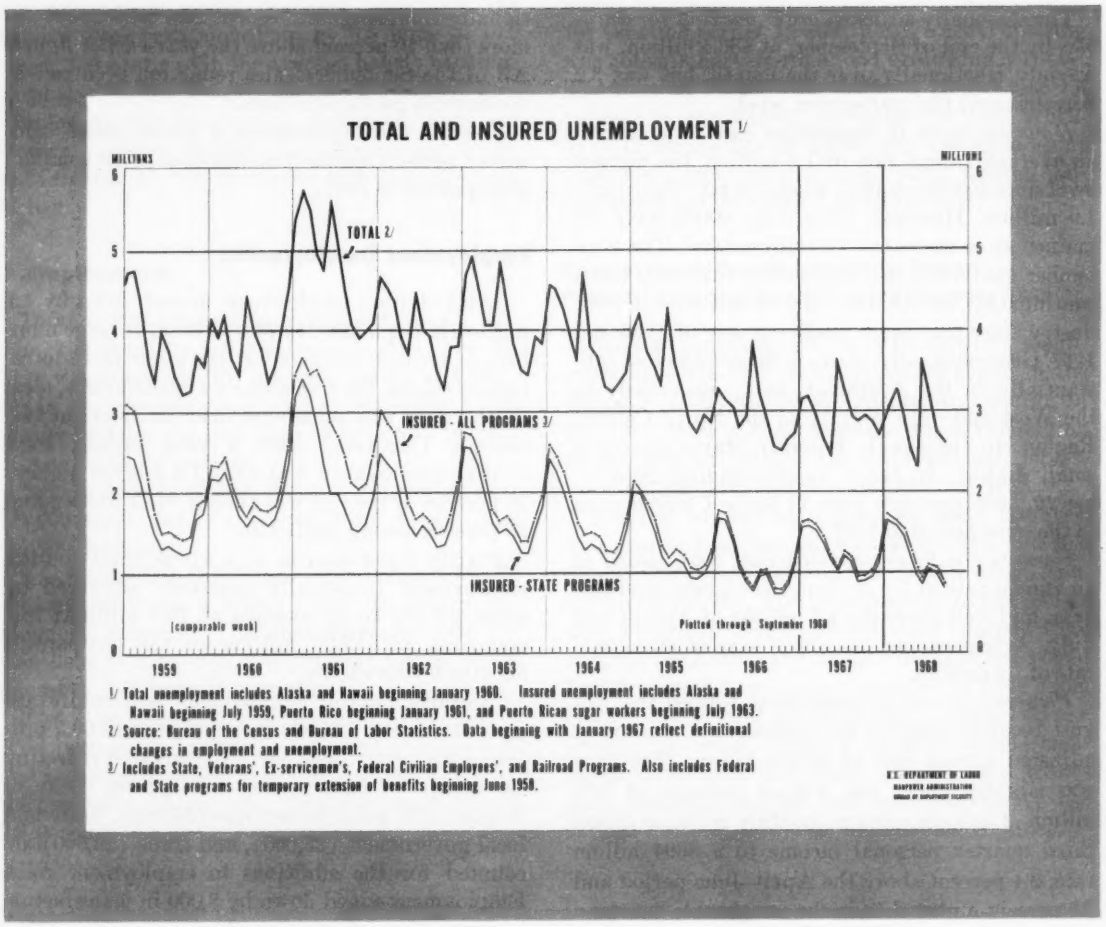
At a $199.5 billion annual rate, government purchases of goods and services moved up by $3.8 billion, with the State and local governments accounting for three-fourths of the gain. Federal Government purchasing showed a deceleration in its rate of increase, most notably in the defense segment; the $1.1 billion gain—the smallest since the second quarter of 1965—contrasted sharply with advances of $3.6 and $2.9 billion in the 1968 first and second quarters, respectively.

Net exports of goods and services posted a $600 million increase to $2.6 billion, marking the first increase since the comparable quarter a year earlier.

Industrial output showed a further easing in September, largely reflecting a continued falloff in durable goods manufacturing. The index of industrial production, at 163.4 percent (1957–59=100), was down by one-half a percentage point in September, following a sharper contraction of 1.7 percentage points in the prior month. Moreover, the September decline brought the index to its lowest level in 5 months.

Manufacturing output slipped by 0.3 point, with most of the decline stemming from lower output among durable goods industries, chiefly primary and fabricated metals. The inventory

**Prepared by Office of Manpower Research, Manpower Administration.*


TOTAL AND INSURED UNEMPLOYMENT 1/
MILLIONS
MILLIONS
6
5
4
3
2
1
0
TOTAL 2/
INSURED - ALL PROGRAMS 3/
INSURED - STATE PROGRAMS
(comparable week)
Plotted through September 1968
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
1/ Total unemployment includes Alaska and Hawaii beginning January 1960. Insured unemployment includes Alaska and Hawaii beginning July 1959, Puerto Rico beginning January 1961, and Puerto Rican sugar workers beginning July 1963.
2/ Source: Bureau of the Census and Bureau of Labor Statistics. Data beginning with January 1967 reflect definitional changes in employment and unemployment.
3/ Includes State, Veterans', Ex-servicemen's, Federal Civilian Employees', and Railroad Programs. Also includes Federal and State programs for temporary extension of benefits beginning June 1958.

"workoff" in the steel industry after the successful labor-contract negotiations resulted in a steel production cutback of more than 18 percent since July. Steel production during the first half of the year was heavily inflated by strike-hedge inventory buying. Output for the broad machinery and related products category edged higher, despite a small decline in automobile segment. Production of clay-glass-lumber and furniture and fixtures also registered gains in September. Among the nondurables industries, the falloff in paper and printing output—the third successive monthly reduction—more than offset small advances in the other categories.

Output in mining fell by 2.3 percent to 126.4 percent, while utilities production inched up to 200.3 percent from August's 199.8 percent. This was the first time that the utilities index has reached the 200-percent mark.

Following a decline in July and a small rebound in August, *durable goods orders* climbed sharply in September, raising by nearly $1 billion, or 3.3 percent, to a seasonally adjusted $28.1 billion; this matched the record level set in December 1967. A year earlier, new orders totaled $25.2 billion. The large gains in primary metals and machinery more than offset a decline for transportation equipment other than motor vehicles and parts.

Shipments of durable goods also moved higher in September to $27.9 billion. The 4.4-percent rise was widespread, but increased shipments of primary metals and transportation equipment were notable.

The seasonally adjusted *order backlog for durables* by the end of September, at $80.4 billion, was up only fractionally over the month, but was 3.2 percent above the year-earlier level.

Housing starts in September rose 6 percent to an average annual rate of 1.6 million, the highest level since February 1964, when the rate was nearly 1.9 million. However, since July starts have remained at or above the 1.5 million level. The September gain, although larger than expected, was a continuation of the recovery in the housing industry since the severe credit squeeze of 1966 and 1967. Geographically, starts in September rose substantially in the Northeast, more moderately in the West and only slightly in the North Central Region. In the South, however, starts showed a small decline. In the 6 months ending September 20, housing starts were 14 percent higher than in the same period of 1967.

Permits for future construction were issued at an annual rate of 1.4 million, the highest level this year, and well above the 1.3 million of August and July. A year earlier, issuances were at an annual rate of 1.2 million.

Personal income in September topped the August record, rising by $4.5 billion to a seasonally adjusted annual rate of $698.6 billion. The gain was slightly under the August increase of $4.9 billion. The most current monthly advance raised third quarter personal income to a $694 billion rate, 2.4 percent above the April–June period and 9.5 percent higher than in the comparable quarter a year earlier.

September's advance was shared by all income categories, with the largest rise—$3.1 billion—occurring in the key wage and salary component; the rate of gain in this sector has been nearly uniform since June. About half of the September advance in wages and salaries stemmed from payroll boosts among construction and manufacturing workers. Factory payrolls were up by $800 million—a sharply higher gain than August's $300 million. The increase was widespread, with the largest gains occurring in the durable goods industry, especially transportation equipment; both hours worked and employment in the automobile industry reflected the upswing in activity as the new model year got underway.

Retail sales were virtually unchanged in September, following 4 months of healthy gains. At $29.0 (seasonally adjusted) sales were down fractionally from August's record $29.1 billion, but are more than 10 percent above the year-earlier figure. All of the September sales reduction occurred in nondurable goods purchases.

For the third quarter as a whole, retail sales were 3 percent higher than the sales in the comparable quarter in 1967.

Employment Developments

Total civilian employment moved down by 1.5 million in September to 75.9 million, as large numbers of teenage workers left the labor force to return to school. On a seasonally adjusted basis, total employment was unchanged over the month at 76.0 million. Compared with a year earlier, total civilian employment was some 1.3 million higher; 58 percent of the rise was among adult women and 28 percent among adult men.

For the third quarter as a whole, total civilian employment (seasonally adjusted) advanced by some 137,000 to an average of 76.0 million; this compares with 74.6 million in the comparable quarter a year earlier.

Nonfarm payroll employment (seasonally adjusted) rose by 123,000 in September to 68.5 million, with nearly one-fourth the advance reflecting the return of construction workers on strike in August. Job gains in services (37,000), State and local government (25,000), and trade (20,000) accounted for the additions to employment rolls. Employment edged down by 8,000 in manufacturing; since June, factory employment has been moving down. All of September's reduction was in the nondurable goods sector, with small declines registered in nearly every industry. Employment in the durable goods industries showed about the expected change for this time of year.

Compared with a year earlier, nonfarm payroll employment was higher by some 2.3 million workers with every industry group recording growth. Both government and trades posted gains of more than one-half million each while services and manufacturing each showed growth of more than 400,000 workers. The largest gains in factory jobs occurred in the transportation, equipment, fabricated metal, electrical equipment, rubber-plastic

products, and chemical industries. The smallest growth was in mining (27,000) and construction (55,000).

Partly reflecting the sharp rise in the workweek for transportation equipment employees as the new automobile model year got underway, the factory workweek moved up by 0.3 hour to 40.9 hours. A 4-cent rise in the average hourly earnings coupled with the longer workweek resulted in a sizable advance in average weekly earnings for factory workers. Weekly earnings moved up by $2.84 to $124.23; this compared with $116.85 a year earlier.

Unemployment

Total unemployment in September, at 2.6 million, was down by 166,000 from August. The decline was about 100,000 less than expected, resulting in the seasonally adjusted unemployment rate edging up from the post-Korean low of 3.5 percent in August to 3.6 percent.

Included in the jobless count in September were 814,000 adult men, 1.1 million adult women, and 741,000 teenagers.

The jobless rate for women moved from 3.7 to 3.9 percent, reflecting a larger labor force than employment increase. The unemployment rate for men held at 2.2 percent, while that for teenagers moved to 12.6 from 12.0 percent.

The unemployment rate in the third quarter of 1968 averaged 3.6 percent—the same as in the first and second quarters of this year. In 1966 and 1967, the quarterly jobless rates ranged between 3.7 and 3.9 percent.

State insured unemployment moved down by 150,000 in September to a weekly average of 805,000. A year earlier, the average was 891,000. The September decline was attributable, in large part, to the return of automobile workers following the model-changeover lull and the end of plant closing for vacation period. In addition, the usual upswing was noted in harvest-time food processing activity. The insured jobless rate dropped from 1.9 to 1.6 percent in September, matching the post World War II record low in September and October of 1966. On a seasonally adjusted basis, insured joblessness remained at the 1.1 million level.

Employment Developments in Urban Poverty Neighborhoods: Third Quarter 1968

Reduced population in the urban poverty neighborhoods—one-fifth of the neighborhoods in the Nation's 100 largest cities—resulted in a decline in the labor force in these areas as well as a reduction in the number of both the employed and jobless between the third quarters of 1967 and 1968.

The rate of decline in unemployment, however, was greater than that for the labor force, and as a result, the unemployment rate moved down from 6.6 to 5.9 percent. The improvement in the jobless rate in ghetto neighborhoods was sharper than that for the Nation as a whole where the rate edged to 3.6 percent in the third quarter of 1968 from 3.8 percent. Except for white adult women, all age groups in urban poverty neighborhoods—teenagers, adult men and adult women, both whites and Negroes—showed less unemployment; the largest declines, however, were among Negroes.

SELECTED UNEMPLOYMENT INSURANCE STATISTICS, STATE PROGRAMS, SEPTEMBER 1968

State	Initial claims received 1/ 2/	Weeks claimed 2/	Number of insured unemployed (weekly average) 3/	Number of beneficiaries (weekly average) 3/	Average weekly payments for total unemployment	Number of final payments 4/	Benefits paid 5/	12 months ending Sept. 1968 (in thousands)		Funds available Sept. 1968 7/ (in thousands)
								Benefits paid 6/	Collections and interest	
Total	8/6044478	8/3440956	8/802249	687401	$43.78	56609	$121368604	$2029221	-$301025	$11550028
Alabama	10187	68379	14415	11491	34.67	1347	1638954	23118	29689	120248
Alaska	1634	6519	1527	1315	43.49	123	243316	9/ 3391	12307	10/ 82687
Arizona	4142	21604	5037	3864	39.57	393	635413	11639	21322	88967
Arkansas	4213	23974	5548	4420	31.75	439	572702	12914	15765	46311
California	96831	543785	127812	115207	50.36	10856	8749513	410269	600423	1105609
Colorado	2646	12470	2487	1681	48.80	117	333536	7106	10253	74881
Connecticut	9576	77904	18060	18838	48.51	1038	3725271	51349	69384	289334
Delaware	1511	6879	1610	1703	43.26	140	299344	6314	5971	84386
Dist. of Col.	1395	14568	3274	3453	46.23	226	661802	8201	10088	72545
Florida	11282	103356	24270	20146	31.96	2664	2669116	22199	34352	238618
Georgia	7555	44924	9200	7390	36.40	1106	1082018	17853	47148	275374
Hawaii	1935	15306	3585	2884	49.76	190	545119	8079	13179	33418
Idaho	1490	9926	2164	1908	38.98	153	291023	7326	9749	40262
Illinois	21106	134255	31516	29368	42.98	2819	5167545	94763	54649	525991
Indiana	12270	59218	12336	10444	37.09	1297	1600020	33233	60621	277055
Iowa	2574	19029	4195	3423	44.63	372	606832	13732	17057	130323
Kansas	2348	16738	4319	4038	43.89	301	272230	10384	19960	91284
Kentucky	4958	36938	8705	6583	38.09	651	1024561	20997	30489	156671
Louisiana	10698	62471	13034	12244	39.53	1106	1981442	28835	36716	165242
Maine	3209	18280	4172	3388	36.57	297	467949	9036	11024	44865
Maryland	9724	53529	11418	10214	45.54	668	1894566	27969	33367	227681
Massachusetts	24267	153605	35752	31749	44.44	2572	5529384	93031	136641	368635
Michigan	23617	216914	36486	45979	51.84	2720	9877027	117358	143583	10/576251
Minnesota	3711	23761	5490	4229	39.35	489	683828	26411	46556	86211
Mississippi	4581	20290	4920	3575	27.54	330	401632	8009	11670	81804
Missouri	15587	68082	15244	12612	42.62	732	2067918	35135	41892	274839
Montana	1394	7392	1447	1163	31.27	154	153203	5311	6892	23010
Nebraska	1287	10556	2044	2026	37.47	214	311290	6277	9430	51239
Nevada	3085	14685	3208	2745	43.13	266	488986	9658	12482	31636
New Hampshire	1462	5367	1242	802	39.28	1	110068	2207	7961	46079
New Jersey	28095	190674	44330	43506	52.05	3970	9206890	135848	169123	452161
New Mexico	2644	14778	3057	2485	33.53	217	342541	7482	7834	39190
New York	91799	408553	96357	87130	46.21	4672	15917285	276886	413139	1662949
North Carolina	10338	52293	10661	9128	30.09	685	1112204	24867	63945	340057
North Dakota	308	2764	507	272	35.84	24	40596	4024	5183	8654
Ohio	25000	103298	24626	18963	44.95	1000	3516649	60165	124329	639897
Oklahoma	4484	32961	7665	5716	31.23	562	738747	12188	12554	58782
Oregon	8015	36327	8596	6455	39.17	548	1039412	26323	34077	127567
Pennsylvania	50502	221447	53874	44130	43.26	2479	7369394	112535	284328	807690
Puerto Rico	8/13365	8/107199	8/46922	14768	24.57	3131	1546203	9/ 22019	28952	79319
Rhode Island	5386	29262	6318	6489	43.68	520	1130021	15722	22435	78090
South Carolina	6415	32387	7654	6281	33.57	804	862236	14222	28722	137224
South Dakota	275	2911	621	506	32.27	58	62164	3236	2959	18206
Tennessee	9750	61265	14457	10845	33.17	1089	1464566	28941	49723	178082
Texas	12930	69137	14432	11642	36.20	1335	1725830	26690	47636	339559
Utah	2350	16440	3837	2840	39.40	243	460730	10302	12569	44066
Vermont	1051	5264	1154	932	41.33	67	151414	4542	7998	22541
Virginia	4182	19403	4056	2884	33.53	295	392613	8600	23181	193950
Washington	14179	84222	19894	17218	33.01	1	2364395	39216	76838	325267
West Virginia	5350	29513	6848	5934	31.00	369	748084	14381	21754	88037
Wisconsin	7564	52186	11507	10142	50.14	740	2050364	43249	68685	287600
Wyoming	336	1621	359	260	39.21	19	39678	1740	3655	15543

1/ Excludes transitional claims.
2/ Total includes claims taken as agent State by the Virgin Islands.
3/ Weekly data are adjusted for split weeks in the month on the basis of a 5-day work week.
4/ A final payment is the payment for the last week of compensable unemployment in a benefit year, and indicates the exhaustion of benefit rights by a claimant for that benefit year. Because of the time lapse between the actual week in which the unemployment occurs and the date on which final payment is made the monthly total includes some claimants who exhausted their rights in the preceding month but received their final payment in the reported month, and excludes some claimants who exhausted their rights in the reported month but will not receive their final payments until the succeeding month. Workers who exhaust their rights may be entitled to additional benefits when the following benefit year begins. The number of exhaustions is not indicative of the number who are still unemployed as some will have obtained employment and others may have withdrawn from the labor force.
5/ Unadjusted for voided benefit checks and transfers under interstate combined-wage plan. Includes $94,494 in payments under extended duration provisions of State laws in two States: Alaska $5,139 and Puerto Rico $89,355.
6/ Adjusted for voided benefit checks and transfers under interstate combined-wage plan.
7/ Includes amount credited to States' accounts in the unemployment trust fund, less withdrawals by the States, under the provisions of the Employment Security Administrative Financing Act of 1954.
8/ Includes data under the program for Puerto Rican sugarcane workers.
9/ Includes payments made under State temporary extended benefit provisions.
10/ Funds available reflect an advance from Federal account in Unemployment Insurance Trust Fund.

Selected Unemployment Insurance Statistics, Federal Programs,[1] September 1968

State	UCFE					UCX				
	Initial claims received [2]	Weeks claimed	Number of beneficiaries (weekly average)	Benefits paid [3]	Average weekly payments for all unemployment [4]	Initial claims received [2]	Weeks claimed	Number of beneficiaries (weekly average)	Benefits paid [3]	Average weekly payments for all unemployment [4]
Total	8,802	84,062	17,555	$3,298,981	$44.70	22,177	123,006	26,295	$5,168,520	$46.80
Alabama	218	2,779	507	77,681	36.49	447	2,760	515	86,987	40.20
Alaska	125	1,066	299	56,744	42.51	46	271	59	12,932	51.12
Arizona	125	1,154	254	44,532	41.77	295	1,245	248	45,602	43.76
Arkansas	78	499	110	16,931	36.49	139	741	176	29,810	40.34
California	1,266	14,277	2,937	647,293	52.48	3,810	25,149	5,437	1,168,020	51.15
Colorado	82	779	166	35,799	51.44	253	1,149	196	41,000	49.82
Connecticut	53	459	110	25,247	54.41	276	1,597	414	83,619	48.08
Delaware	8	136	18	3,409	45.45	61	159	64	12,508	46.85
Dist. of Col.	243	3,496	965	212,574	52.44	119	812	182	39,750	51.96
Florida	150	1,374	205	31,294	36.43	378	1,681	320	51,328	38.25
Georgia	268	2,000	407	71,824	42.05	359	1,937	407	74,659	43.66
Hawaii	99	998	355	83,117	55.78	151	792	183	44,653	57.99
Idaho	36	192	38	6,305	39.41	59	325	65	11,994	43.93
Illinois	233	2,771	634	106,426	39.96	698	2,930	603	104,967	41.44
Indiana	68	493	83	11,207	38.11	463	1,824	304	50,702	39.70
Iowa	24	167	32	5,757	42.64	129	649	139	29,305	50.09
Kansas	50	480	97	18,996	46.67	91	477	117	23,604	48.17
Kentucky	137	1,700	379	61,344	38.53	425	3,093	710	136,422	45.75
Louisiana	114	1,580	271	45,747	40.20	424	2,843	530	97,811	43.90
Maine	33	319	94	15,267	38.85	77	330	77	14,761	45.70
Maryland	148	1,184	212	37,553	42.15	484	1,854	395	81,249	48.92
Massachusetts	676	4,744	1,122	244,609	51.91	455	3,223	725	158,311	51.99
Michigan	149	1,405	356	68,345	45.72	964	5,962	1,391	262,292	44.90
Minnesota	34	340	92	16,483	42.59	228	1,279	317	60,146	45.15
Mississippi	72	525	116	12,967	26.57	79	402	97	12,948	31.81
Missouri	263	1,480	395	63,300	38.18	531	2,292	602	120,090	47.47
Montana	56	388	63	8,697	32.82	57	381	66	9,227	33.19
Nebraska	33	259	64	10,130	37.66	39	344	72	12,759	42.11
Nevada	47	391	67	11,962	42.57	125	438	84	15,782	44.71
New Hampshire	20	52	7	1,442	46.52	37	137	28	5,942	50.79
New Jersey	283	1,905	360	85,015	56.26	758	6,946	1,450	352,951	57.97
New Mexico	108	1,731	197	30,538	36.84	202	1,213	223	36,114	38.62
New York	591	4,475	893	166,833	44.49	1,701	8,698	1,808	351,738	46.32
North Carolina	118	893	174	24,339	33.25	298	1,307	233	39,672	40.52
North Dakota	21	268	30	4,590	37.02	48	250	33	6,458	47.14
Ohio	162	1,188	329	59,129	42.82	1,040	4,137	714	137,506	45.88
Oklahoma	150	1,851	395	57,771	34.80	157	1,231	237	36,202	36.42
Oregon	115	685	128	19,994	37.23	336	1,389	308	59,351	45.90
Pennsylvania	514	4,644	1,120	217,640	46.25	2,190	9,189	2,210	455,132	49.04
Puerto Rico	21	3,369	105	12,594	28.69	232	2,608	548	72,187	31.35
Rhode Island	34	671	166	35,439	50.77	163	799	180	37,368	49.36
South Carolina	86	542	129	20,931	38.69	226	1,007	225	41,116	43.55
South Dakota	23	308	81	12,553	37.03	23	164	35	5,543	37.71
Tennessee	231	1,843	407	66,819	39.08	537	3,892	828	140,026	40.27
Texas	475	3,312	632	106,972	40.31	841	3,957	818	147,915	43.04
Utah	283	2,912	585	112,685	45.83	146	1,021	210	39,940	45.39
Vermont	7	123	22	4,473	47.59	32	170	30	5,858	46.85
Virginia	129	613	93	14,646	37.45	184	867	132	23,672	42.73
Virgin Islands	1	4	0	0	0	7	15	2	400	40.00
Washington	411	4,234	1,042	158,563	36.22	597	2,463	510	85,061	39.67
West Virginia	36	323	64	7,219	26.94	403	2,277	534	91,273	40.67
Wisconsin	87	626	138	25,538	44.11	345	2,265	494	101,893	49.11
Wyoming	8	55	10	1,718	41.90	12	65	10	2,022	48.14

1/ The programs for Federal civilian employees (UCFE) and for ex-servicemen (UCX), established under Title XV of the Social Security Act, (now 5 U.S.C. 8501 et seq.) became effective January 1, 1955 and October 27, 1958, respectively. Data exclude information on claims filed jointly with State unemployment insurance programs.

2/ Includes transitional claims.

3/ Unadjusted for voided benefit checks and transfers under interstate combined-wage plan.

4/ Includes data for total, part-total, and partial unemployment. Separate data for total unemployment are not available.

Temporary Disability Insurance Activities Under State and Railroad Programs

	First claims received					
	March 1968	April 1968	May 1968	June 1968	July 1968	August 1968
California						
State plan						
Basic benefits	54,760	55,359	56,259	49,845	55,329	54,618
Additional hospital benefits 1/	32,141	31,646	32,499	29,624	30,943	31,123
Private plan	3,961	4,230	3,521	4,129	3,554	3,946
New Jersey						
State plan	9,837	9,726	9,684	8,789	9,079	9,632
Private plan 2/	--	--	--	--	--	--
New York 2/	--	--	--	--	--	--
Rhode Island	3,245	3,270	3,333	2,763	3,221	3,099
Railroad						
Sickness	7,886	7,807	7,945	9,467	29,178	9,695
Maternity	131	97	66	54	(3/)	(3/)

	Weeks compensated					
	March 1968	April 1968	May 1968	June 1968	July 1968	August 1968
California						
State plan						
Basic benefits	312,426	333,987	327,132	304,760	349,345	328,365
Additional hospital benefits 4/	230,989	227,782	231,190	210,087	221,375	221,520
Private plan 2/	--	--	--	--	--	--
New Jersey						
State plan	66,585	75,364	75,021	68,102	77,127	76,896
Private plan 2/	--	--	--	--	--	--
New York 2/	--	--	--	--	--	--
Rhode Island	30,945	31,433	32,749	28,748	30,974	32,113
Railroad						
Sickness 5/	76,638	76,766	74,148	62,270	76,734	98,130
Maternity 5/	1,874	1,856	2,174	1,906	(3/)	(3/)

	Benefits paid					
	March 1968	April 1968	May 1968	June 1968	July 1968	August 1968
California						
State plan						
Basic benefits	$17,997,707	$19,288,713	$18,900,749	$17,625,868	$20,224,345	$18,988,157
Additional hospital benefits	2,771,868	2,733,384	2,774,280	2,521,044	2,656,500	2,658,240
Private plan 2/	--	--	--	--	--	--
New Jersey						
State plan	3,374,188	3,654,688	3,705,365	3,424,273	3,935,226	3,863,405
Private plan 2/	--	--	--	--	--	--
New York 2/	--	--	--	--	--	--
Rhode Island	1,188,260	1,220,657	1,258,569	1,119,960	1,218,928	1,265,764
Railroad						
Sickness	1,992,682	2,464,604	2,015,913	1,626,665	2,447,571	4,264,278
Maternity	130,970	130,692	151,068	133,408	(3/)	(3/)

1/ Represents the number of payments made.
2/ Data not available.
3/ Maternity benefits are included as part of sickness benefits effective July 1, 1968
4/ Days for which additional hospital benefits were paid.
5/ Estimated from data "benefit periods" compensated which are paid biweekly.

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